

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 917

Introduced by Transportation and Telecommunications Committee:
Bromm, 23, Chairperson; Baker, 44; Brown, 6;
Byars, 30; Hudkins, 21; Jones, 43; Dw. Pedersen, 39

Read first time January 9, 2002

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications and technology; to amend
2 sections 2-3917.02, 25-2503, 28-711, 28-1310, 43-158,
3 70-301, 75-101, 75-128, 75-133, 75-155, 75-605, 75-607,
4 75-608, 75-611 to 75-616, 76-2301, 76-2321, 81-1117,
5 81-1120.17, 81-1120.19, 81-1190 to 81-1192, 81-1576,
6 81-1849, 81-2301 to 81-2303, 81-2305, 81-2306, 81-2308,
7 81-2309 to 81-2313, 81-2601, 81-2603 to 81-2605, 86-101
8 to 86-107, 86-109, 86-111, 86-112, 86-208 to 86-211,
9 86-301 to 86-309, 86-329 to 86-331.04, 86-334 to 86-338,
10 86-401 to 86-412, 86-502, 86-601, 86-701 to 86-712,
11 86-801, 86-802, 86-805 to 86-807, 86-809, 86-810, 86-1001
12 to 86-1004, 86-1006 to 86-1009, 86-1101 to 86-1109,
13 86-1201 to 86-1218, 86-1221, 86-1301 to 86-1305, 86-1307,
14 86-1401, 86-1402, 86-1404, 86-1406 to 86-1410, 86-1501 to
15 86-1514, 86-1601 to 86-1606, 86-1803 to 86-1811, 86-1901
16 to 86-1904, 86-1906, 86-1910, 86-1911, 86-2002 to

1 86-2007, and 86-2009 to 86-2013, Reissue Revised Statutes
2 of Nebraska, sections 2-1570, 25-2602.01, 49-14,141,
3 52-1307, 52-1314, 75-109, 75-122.01, 75-134, 75-156,
4 75-606, 75-609 to 75-610, 75-617, 79-1327, 81-1120.35 to
5 81-1120.38, 81-1120.40, 81-1194, 81-1195, 81-1196.01,
6 81-1199, 81-11,102, 81-2304, 81-2307, 81-2308.01,
7 81-2602, 86-803, 86-811, 86-1005, 86-1110, 86-1111,
8 86-1219, 86-1222, 86-1306, 86-1701, and 86-2101 to
9 86-2116, Revised Statutes Supplement, 2000, sections
10 18-419, 28-401, 70-625, 70-704, 70-1409, 71-1,142,
11 75-132.01, 75-604, 79-215, 79-1241.02, 79-1328, 86-804,
12 86-808, 86-1403, 86-1405, 86-1905, 86-1907 to 86-1909,
13 86-2001, 86-2008, 86-2014, 86-2201 to 86-2214, and
14 86-2301 to 86-2307, Revised Statutes Supplement, 2001,
15 and section 9-812, Revised Statutes Supplement, 2001, as
16 amended by section 1, Legislative Bill 3, Ninety-seventh
17 Legislature, First Special Session, 2001; to reorganize
18 statutory provisions relating to telecommunications and
19 technology; to transfer, combine, and eliminate sections;
20 to eliminate obsolete and expired provisions and
21 penalties; to harmonize provisions; to provide duties for
22 the Revisor of Statutes; to provide operative dates; to
23 repeal the original sections; and to outright repeal
24 sections 86-108, 86-110, 86-113, 86-201, 86-202, 86-203,
25 86-503, 86-602, 86-603, and 86-1220, Reissue Revised
26 Statutes of Nebraska.

27 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) This legislative bill is a reorganization
2 of telecommunications and technology statutes as codified in
3 Chapter 86 and is the result of interim studies conducted from 1999
4 through 2001 by the Transportation and Telecommunications Committee
5 of the Legislature and the Public Service Commission. In 1999, the
6 committee began to examine the statutory and regulatory authority
7 of the commission. Although the commission's jurisdiction covers
8 several diverse subjects, the committee and the commission jointly
9 decided to examine the communications jurisdiction first since this
10 subject matter represents a significant portion of the commission's
11 workload and has been the topic of a recent volume of legislation
12 in response to the federal Telecommunications Act of 1996, Public
13 Law 104-104. Upon a review of the telecommunications and
14 technology statutes, the committee found that the statutes were
15 scattered based upon both subject matter (placement within Chapter
16 86) and jurisdiction or agency (placement within Chapters 75 and
17 81). The committee recommended that all substantive
18 telecommunications and technology statutes be placed by subject
19 matter instead of by jurisdiction or agency. As a result, it is
20 the intent of the Legislature that Chapter 86 encompass all
21 telecommunications and technology statutes. In addition the
22 committee recommended that the telecommunications and technology
23 statutes be reorganized by topic and restructured to aid
24 readability and ease of use by the public.

25 (2) This legislative bill is a simple restructuring and
26 basic reorganization of the telecommunications and technology
27 statutes and does not contain any change in substantive law or
28 public policy as such law or policy existed prior to the operative

1 date of this section. Aside from reorganization, this legislative
2 bill does contain grammar changes and language changes to conform
3 with current stylistic bill drafting conventions. Such grammar and
4 language changes include dividing lengthy sentences into shorter
5 sentences, dividing lengthy statutes into multiple statutes or
6 subsections, using the active voice and present verb tense, using
7 gender neutral terminology, deleting obsolete date references, and
8 naming groups of statutes as named acts.

9 (3) Sections 2 to 419 of this act represent the
10 "recodified Chapter 86". The committee recommends that the
11 "recodified Chapter 86" be categorized as follows:

12 (a) Article 1 - Telecommunications Regulation (sections 2
13 to 62 of this act);

14 (b) Article 2 - Telecommunications Consumer Protection
15 (sections 63 to 182 of this act);

16 (c) Article 3 - Universal Service (sections 183 to 211 of
17 this act);

18 (d) Article 4 - Public Safety Systems (sections 212 to
19 274 of this act);

20 (e) Article 5 - Public Technology Infrastructure
21 (sections 275 to 366 of this act);

22 (f) Article 6 - Electronic Information (sections 367 to
23 409 of this act); and

24 (g) Article 7 - Telecommunications Rights-of-way
25 (sections 410 to 419 of this act).

26 Sections 420 to 485 of this act are harmonization
27 sections. These harmonization sections fall into three basic
28 categories: Statutes outside Chapter 86 which contain internal

1 references to statutes reorganized within Chapter 86; statutes
2 outside Chapter 86 which contain terminology that requires changes
3 to conform with statutes reorganized within Chapter 86; and
4 statutes formerly within Chapter 86 which are transferred outside
5 of Chapter 86 because the subject matter lies outside the scope of
6 telecommunications and technology.

7 (4) This section terminates on January 1, 2003.

8 Sec. 2. Sections 2 to 62 of this act shall be known and
9 may be cited as the Nebraska Telecommunications Regulation Act.

10 Sec. 3. Section 86-801, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-801.~~ The Legislature declares that it is the policy
13 of the state to:

14 (1) Preserve affordable telecommunications services;

15 (2) Maintain and advance the efficiency and availability
16 of telecommunications services;

17 (3) Ensure that consumers pay only reasonable charges for
18 telecommunications services;

19 (4) Promote diversity in the supply of telecommunications
20 services and products throughout the state; and

21 (5) Promote fair competition in all Nebraska
22 telecommunications markets in a manner consistent with the federal
23 act.

24 Sec. 4. Section 86-802, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-802.~~ For purposes of ~~sections 75-109, 75-604, 75-609,~~
27 ~~75-609.01, and 86-801 to 86-811~~ the Nebraska Telecommunications
28 Regulation Act, unless the context otherwise requires, the

1 definitions found in sections 5 to 22 of this act apply. +

2 ~~(1) Basic local exchange rate means the flat monthly~~
3 ~~charge for an access line, whether the service is provided on a~~
4 ~~flat or measured basis, imposed by a telecommunications company for~~
5 ~~basic local exchange service, but does not include any charges or~~
6 ~~taxes imposed by or resulting from action by a governmental body~~
7 ~~which are billed by a telecommunications company to its customers,~~

8 ~~(2) Basic local exchange service means the access and~~
9 ~~transmission of two-way switched voice communications within a~~
10 ~~local exchange area,~~

11 ~~(3) Business service means telecommunications service~~
12 ~~which is used for occupational, professional, or institutional~~
13 ~~purposes,~~

14 ~~(4) Class of subscribers means a group of customers for~~
15 ~~which a telecommunications company has established a distinct~~
16 ~~pricing plan for telecommunications service,~~

17 ~~(5) Commission means the Public Service Commission,~~

18 ~~(6) Extended area service means a telecommunications~~
19 ~~service which groups two or more exchanges to allow subscribers of~~
20 ~~one exchange in the group to place and receive two-way switched~~
21 ~~communications to and from subscribers in one or more other~~
22 ~~exchanges in the group without an interexchange toll charge,~~

23 ~~(7) Federal act means the federal Communications Act of~~
24 ~~1934, as amended, including the federal Telecommunications Act of~~
25 ~~1996, Public Law 104-104,~~

26 ~~(8) Interexchange service means the access and~~
27 ~~transmission of communications between two or more local exchange~~
28 ~~areas, except for two-way switched communications between local~~

1 exchanges that are grouped for extended area service,

2 ~~(9) Inter-LATA interexchange service means interexchange~~
3 ~~service originating and terminating in different LATAs,~~

4 ~~(10) Intra-LATA interexchange service means interexchange~~
5 ~~service originating and terminating within the same LATA,~~

6 ~~(11) LATA means local access transport area as defined by~~
7 ~~applicable federal law, rules, or regulations,~~

8 ~~(12) Local exchange area means a territorial unit~~
9 ~~established by a telecommunications company for the administration~~
10 ~~of telecommunications service within a specific area generally~~
11 ~~encompassing a city, town, or village and its environs as described~~
12 ~~in maps filed with and approved by the Public Service Commission,~~

13 ~~(13) Residence service means telecommunications service~~
14 ~~which is furnished to a dwelling and which is used for personal or~~
15 ~~domestic purposes and not for business, professional, or~~
16 ~~institutional purposes,~~

17 ~~(14) Telecommunications means the transmission, between~~
18 ~~or among points specified by the subscriber, of information of the~~
19 ~~subscriber's choosing, without a change in the form or content of~~
20 ~~the information as sent or received,~~

21 ~~(15) Telecommunications common carrier means a provider~~
22 ~~of telecommunications services for hire which offers its services~~
23 ~~to the general public at large in Nebraska intrastate commerce,~~

24 ~~(16) Telecommunications company means any person, firm,~~
25 ~~partnership, limited liability company, corporation, association,~~
26 ~~or governmental entity offering telecommunications service for a~~
27 ~~fee in Nebraska intrastate commerce,~~

28 ~~(17) Telecommunications contract carrier means a provider~~

1 of telecommunications services for hire, other than as a common
2 carrier, in Nebraska intrastate commerce, and

3 ~~(18) Telecommunications service means the offering of~~
4 ~~telecommunications for a fee.~~

5 Sec. 5. Basic local exchange rate means the flat monthly
6 charge for an access line, whether the telecommunications service
7 is provided on a flat or measured basis, imposed by a
8 telecommunications company for basic local exchange service but
9 does not include any charge or tax imposed by or resulting from
10 action by a governmental body which are billed by a
11 telecommunications company to its customers.

12 Sec. 6. Basic local exchange service means the access
13 and transmission of two-way switched voice communications within a
14 local exchange area.

15 Sec. 7. Business service means telecommunications
16 service which is used for occupational, professional, or
17 institutional purposes.

18 Sec. 8. Class of subscribers means a group of customers
19 for which a telecommunications company has established a distinct
20 pricing plan for telecommunications service.

21 Sec. 9. Commission means the Public Service Commission.

22 Sec. 10. Extended area service means a
23 telecommunications service which groups two or more exchanges to
24 allow subscribers of one exchange in the group to place and receive
25 two-way switched communications to and from subscribers in one or
26 more other exchanges in the group without an interexchange toll
27 charge.

28 Sec. 11. Federal act means the federal Communications

1 Act of 1934, as amended, including the federal Telecommunications
2 Act of 1996, as such acts existed on the operative date of this
3 section.

4 Sec. 12. Interexchange service means the access and
5 transmission of communications between two or more local exchange
6 areas, except for two-way switched communications between local
7 exchanges that are grouped for extended area service.

8 Sec. 13. Inter-LATA interexchange service means
9 interexchange service originating and terminating in different
10 LATAs.

11 Sec. 14. Intra-LATA interexchange service means
12 interexchange service originating and terminating within the same
13 LATA.

14 Sec. 15. LATA means local access transport area as
15 defined by applicable federal law, rules, or regulations.

16 Sec. 16. Local exchange area means a territorial unit
17 established by a telecommunications company for the administration
18 of telecommunications service within a specific area generally
19 encompassing a city or village and its environs as described in
20 maps filed with and approved by the commission.

21 Sec. 17. Residence service means telecommunications
22 service which is furnished to a dwelling and which is used for
23 personal or domestic purposes and not for business, professional,
24 or institutional purposes.

25 Sec. 18. Telecommunications means the transmission,
26 between or among points specified by the subscriber, of information
27 of the subscriber's choosing, without a change in the form or
28 content of the information as sent or received.

1 Sec. 19. Telecommunications common carrier means a
2 provider of telecommunications service for hire which offers
3 telecommunications service to the general public at large in
4 Nebraska intrastate commerce.

5 Sec. 20. Telecommunications company means any person,
6 firm, partnership, limited liability company, corporation,
7 association, or governmental entity offering telecommunications
8 service in Nebraska intrastate commerce.

9 Sec. 21. Telecommunications contract carrier means a
10 provider of telecommunications service for hire, other than as a
11 common carrier, in Nebraska intrastate commerce.

12 Sec. 22. Telecommunications service means the offering
13 of telecommunications for a fee.

14 Sec. 23. (1) The commission shall implement the federal
15 Telecommunications Act of 1996, as such act existed on the
16 operative date of this section, including section 252 of the act
17 which establishes specific procedures for negotiation and
18 arbitration of interconnection agreements between
19 telecommunications companies. Interconnection agreements approved
20 by the commission pursuant to section 252 of the act may contain
21 such enforcement mechanisms and procedures that the commission
22 determines to be consistent with the establishment of fair
23 competition in Nebraska telecommunications markets.

24 (2) The commission shall not mandate any arrangement that
25 requires interconnecting telecommunications companies to engage in
26 mutual recovery of costs through offsetting of reciprocal
27 obligations. This subsection shall not prohibit telecommunications
28 companies from entering voluntary agreements to engage in such an

1 agreement.

2 (3) In addition, the commission may administratively fine
3 pursuant to section 75-156 any person who violates any enforcement
4 mechanism or procedure established pursuant to this section. The
5 authority granted to the commission pursuant to this section shall
6 be broadly construed in a manner consistent with the federal
7 Telecommunications Act of 1996.

8 Sec. 24. Section 86-809, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-809. Sections 75-109, 75-604, 75-609, 75-609.01, and~~
11 ~~86-801 to 86-811~~ (1) The commission shall regulate the quality of
12 telecommunications service provided by telecommunications companies
13 and shall investigate and resolve subscriber complaints concerning
14 quality of telecommunications service, subscriber deposits, and
15 disconnection of telecommunications service. If such a complaint
16 cannot be resolved informally, then, upon petition by the
17 subscriber, the commission shall set the matter for hearing in
18 accordance with the commission's rules and regulations for notice
19 and hearing. The commission may by order grant or deny, in whole
20 or in part, the subscriber's petition or provide such other relief
21 as is reasonable based on the evidence presented at the hearing.
22 Any such order of the commission may be enforced against any
23 telecommunications company as provided in sections 75-140 to 75-144
24 and such order may be appealed. The appeal shall be in accordance
25 with the Administrative Procedure Act.

26 (2) The commission may regulate telecommunications
27 company rates pursuant to sections 38 to 56 of this act.

28 (3) The Nebraska Telecommunications Regulation Act shall

1 preempt and prohibit any regulation of a telecommunications company
2 by counties, cities, villages, townships, or any other local
3 governmental entity.

4 Sec. 25. Section 86-808, Revised Statutes Supplement,
5 2001, is amended to read:

6 ~~86-808.~~ The commission shall not regulate the following:

7 (1) One-way broadcast or cable television transmission of
8 television or radio signals; and

9 (2) Mobile radio services, radio paging services, and
10 wireless telecommunications service.

11 Sec. 26. Section 86-807, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-807.~~ ~~(1)~~ Except for requirements established by
14 statute, the commission may limit, remove, or waive regulatory
15 requirements for telecommunications companies when it determines
16 that competition will serve the same purposes as public interest
17 regulation. The commission may revoke any waivers it grants or
18 reinstate regulations if such revocation or reinstatement would
19 protect the public interest upon a finding that the
20 telecommunications company is restricting market output, impairing
21 customer interest, or engaging in unlawful anticompetitive
22 activity.

23 ~~(2) A telecommunications company shall at a minimum:~~

24 ~~(a) Keep its accounts according to rules and regulations~~
25 ~~adopted and promulgated by the commission;~~

26 ~~(b) File financial reports with the commission as~~
27 ~~required by and in a form and at times prescribed by the~~
28 ~~commission;~~

1 ~~(c) Keep on file at the commission such current price~~
2 ~~lists and service standards as the commission may require, and~~

3 ~~(d) Cooperate with commission investigations of customer~~
4 ~~complaints.~~

5 Sec. 27. Section 75-604, Revised Statutes Supplement,
6 2001, is amended to read:

7 ~~75-604.~~ (1) (a) To preserve the integrity of a ubiquitous
8 network, to preserve and advance universal service, and to ensure
9 the delivery of essential and emergency telecommunications service,
10 telecommunications common carriers and telecommunications contract
11 carriers in Nebraska are subject to regulation by the commission.
12 In addition to the requirements of ~~Except as provided in section~~
13 ~~86-805, no~~ 28 of this act, a person, firm, partnership, limited
14 liability company, corporation, cooperative, or association shall
15 file an application and receive either a certificate of convenience
16 and necessity as a telecommunications common carrier or a permit as
17 a telecommunications contract carrier before such person may (i)
18 offer any telecommunications service or ~~shall~~ (ii) construct new
19 telecommunications facilities in, or extend existing
20 telecommunications facilities into, the territory of another
21 telecommunications company for the purpose of providing to provide
22 any telecommunications service.

23 (b) The commission may only issue a certificate of
24 convenience and necessity as a telecommunications common carrier or
25 a permit as a telecommunications contract carrier ~~as either a~~
26 ~~telecommunications common carrier or telecommunications contract~~
27 ~~carrier without first making an application for and receiving from~~
28 ~~the commission a certificate of convenience and necessity as a~~

1 ~~telecommunications common carrier or a permit as a~~
2 ~~telecommunications contract carrier,~~ after due notice and hearing
3 ~~under the~~ pursuant to commission rules and regulations. ~~The~~
4 commission shall not issue a certificate or a permit to an agency
5 or political subdivision of the state. ~~of the commission. The~~
6 ~~required certificate for telecommunications common carriers and~~
7 ~~required permit for telecommunications contract carriers are~~
8 ~~necessary to preserve the integrity of a ubiquitous network, to~~
9 ~~preserve and advance universal service, and to ensure the delivery~~
10 ~~of essential and emergency telecommunications services.~~

11 (2) If a telecommunications company holds a certificate
12 of convenience and necessity as a telecommunications common
13 carrier, it shall not be required to obtain a permit as a
14 telecommunications contract carrier.

15 (3) ~~The commission may waive applicability of subsection~~
16 ~~(1) of this section as to the provision of intra-LATA interexchange~~
17 ~~services by duly adopted and promulgated rules and regulations~~
18 ~~applicable to all telecommunications companies providing such~~
19 ~~services, and after such waiver, certification for and provision of~~
20 ~~intra-LATA interexchange services shall be governed by the~~
21 ~~statutes, rules, and regulations for certification for and~~
22 ~~provision of inter-LATA interexchange services.~~

23 ~~(4) The commission may establish such just and reasonable~~
24 ~~classifications of groups of telecommunications common carriers and~~
25 ~~telecommunications contract carriers taking into consideration the~~
26 ~~special nature of the~~ telecommunications service ~~performed~~
27 ~~by such carriers. The commission may adopt and promulgate such~~
28 ~~just and reasonable~~ rules, regulations, and requirements to be

1 observed by a carrier so classified or grouped as the commission
2 deems necessary or desirable and in the public interest.

3 (4) The commission may waive applicability of subsection
4 (1) of this section as to the provision of intra-LATA interexchange
5 service under rules and regulations applicable to all
6 telecommunications companies providing such interexchange service.
7 After such waiver, the certificate or permit for and provision of
8 intra-LATA interexchange service shall be governed by the statutes,
9 rules, and regulations for a certificate or permit for and
10 provision of inter-LATA interexchange service.

11 ~~(5) The commission shall not issue a certificate of~~
12 ~~convenience and necessity as a telecommunications common carrier or~~
13 ~~a permit as a telecommunications contract carrier to an agency or~~
14 ~~political subdivision of the state.~~

15 Sec. 28. Section 86-805, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~86-805.~~ (1) The commission may issue a certificate or
18 permit authorizing any telecommunications company which ~~se~~ applies
19 to the commission files an application to offer and provide
20 inter-LATA interexchange service. ~~The services, which~~ application
21 shall include such information as ~~may be~~ required by the ~~commission~~
22 ~~under duly adopted and promulgated~~ rules and regulations of the
23 commission. The commission may as a precondition to ~~certification~~
24 issuing a certificate or permit: (a) Require the procurement of a
25 performance bond sufficient to cover amounts due or to become due
26 to other telecommunications companies providing access to the local
27 exchange networks for the applicant, and (b) require the
28 procurement of a performance bond sufficient to protect any

1 advances or deposits the telecommunications company may collect
2 from its customers or order that such advances or deposits be held
3 in escrow or trust.

4 (2) The commission may deny ~~certification~~ a certificate
5 or permit to any telecommunications company which:

6 (a) Does not provide the information required by the
7 commission;

8 (b) Fails to provide a performance bond, if required;

9 (c) Does not possess adequate financial resources to
10 provide the proposed interexchange service; or

11 (d) Does not possess adequate technical competency to
12 provide the proposed interexchange service.

13 (3) ~~The~~ Within thirty days after receiving an
14 application, the commission shall ~~take action to~~ approve a
15 certificate or permit or issue a notice of hearing concerning ~~any~~
16 ~~application for certification within thirty days after receiving~~
17 the application. A hearing is only required to deny an
18 application. ~~The commission may approve an application with or~~
19 ~~without a hearing.~~ ~~The commission may deny an application only~~
20 ~~after a hearing.~~

21 (4) Any telecommunications company or ~~an~~ its affiliate
22 ~~thereof~~ that has been authorized by the commission to offer an
23 interexchange service prior to January 1, 1987, shall continue to
24 have such authority. Such ~~and it shall not be necessary for such~~
25 telecommunications company ~~to make~~ or affiliate need not file a new
26 application to provide the interexchange service previously
27 authorized by the commission.

28 Sec. 29. Section 75-605, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~75-605. Any person who operates telephone service~~ (1)
3 Every telecommunications company in Nebraska shall file with the
4 commission (a) maps of the territory in Nebraska in which ~~it~~ the
5 telecommunications company offers local exchange telephone service
6 and ~~shall file~~ (b) amended maps ~~from time to time~~ to continuously
7 keep current the information shown on such maps.

8 (2) Rules and regulations of the commission shall
9 include: The style, size, and kind of maps; ~~and together with the~~
10 information to be shown on such maps; ~~and shall be that required by~~
11 ~~rules and regulations of the commission. The rules and regulations~~
12 ~~shall indicate the time and place for filing the maps; and shall~~
13 ~~require a requirement that the maps be kept current.~~

14 (3) The commission may revoke or suspend the certificate
15 of convenience and necessity as a telecommunications common carrier
16 or the permit as a telecommunications contract carrier of any
17 telecommunications company who violates this section.

18 Sec. 30. Section 75-607, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~75-607. Any telephone carrier~~ Every telecommunications
21 company shall take the calls or messages coming from any other
22 ~~telephone carrier~~ telecommunications company and switch and connect
23 its equipment so that any telephone message from any point in
24 Nebraska may be delivered to any subscriber served by its telephone
25 exchange or switched through and so that any message may be passed
26 on to another exchange over such trunk or toll lines as may be
27 available and designated by the exchange or switching station where
28 the call originated, regardless of the ownership of such lines.

1 Such ~~telephone carrier~~ telecommunications company shall also take
2 calls from its subscribers and public pay stations and pass such
3 calls through its exchange toward destination and over the lines
4 and the route designated by the person making such telephone call
5 if there are competing lines existing between such points. If the
6 person making such telephone call does not designate a route for
7 such message or no competing lines exist between points of
8 origination and destination, the ~~carrier~~ telecommunications company
9 may, by its operator at originating point, make such designation of
10 route, but calls or messages shall be switched through to
11 destination if the point can be reached by any connecting
12 equipment.

13 Sec. 31. Section 75-608, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~75-608.~~ Whenever any competing telephone plant or
16 exchange has been consolidated with or absorbed by another so that
17 the remaining plant or exchange has a monopoly of or exclusive
18 telephone business of any city or village, the ~~operator of~~
19 telecommunications company operating the exclusive exchange or
20 plant shall cause all toll or trunk lines formerly terminating in
21 the eliminated exchange to be placed on or connected to its
22 exclusive exchange, shall make and keep such connection in a good
23 and efficient manner, and shall maintain an interchange of business
24 with such trunk or toll lines the same as its own, in a fair and
25 impartial manner, upon the terms set forth in this section and
26 sections 75-607 to 75-609 30, 39, and 52 of this act. During the
27 period intervening between the time when the first subscribers are
28 taken from the eliminated exchange until the time all have been

1 removed, if such period is more than thirty days, a temporary trunk
2 line shall be established between the two exchanges so that calls
3 may come into both exchanges from the trunk or toll lines of the
4 exchange so absorbed or eliminated and that calls from both
5 exchanges may go out over the lines.

6 Sec. 32. Section 75-611, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~75-611.~~ An existing telephone exchange or central office
9 shall not be abandoned or removed to another city or village except
10 by the written consent of at least sixty percent of the subscribers
11 who had rental service contracts with the ~~carrier~~
12 telecommunications company which seeks to change service six months
13 before an application to change telecommunications service is filed
14 with the commission. The commission shall hold a hearing and issue
15 an order before the change is effected.

16 Sec. 33. Section 86-806, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-806.~~ A telecommunications company may offer special
19 incentives, discounts, packaged offerings, temporary price waivers,
20 or other promotions and may introduce new services and discontinue
21 existing services by filing rate lists which shall be effective
22 after ten days' notice to the commission. However, ~~no~~ No
23 telecommunications company which provides intrastate interexchange
24 service or basic local exchange service may abandon or otherwise
25 discontinue such service in or to a local exchange area which it
26 serves unless:

27 (1) The commission finds upon application and hearing
28 that one or more other telecommunications companies are furnishing

1 comparable telecommunications service to the subscribers in such
2 local exchange area at the time of abandonment; and

3 (2) The telecommunications company discontinuing
4 telecommunications service to such local exchange area:

5 (a) Notifies its subscribers in the local exchange area
6 in writing of the abandonment, which notice shall be sent at least
7 thirty days prior to the effective date of such abandonment;

8 (b) Refunds any unused prepaid subscription charges or
9 other unused prepaid charges to each customer in the local exchange
10 area prior to the effective date of the abandonment; and

11 (c) Prior to the effective date of the abandonment,
12 reimburses its customers in the local exchange area for service
13 charges which its customers incur in obtaining substitute service
14 from another telecommunications company or, in lieu thereof, pays
15 other telecommunications companies directly for such service
16 charges on behalf of its customers making changes in their ~~services~~
17 telecommunications service as a result of the abandonment.

18 Sec. 34. Section 75-612, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~75-612.~~ Any ~~one or more persons~~ person may file an
21 application with the commission to obtain the ~~telephone~~
22 telecommunications service furnished in the exchange service area
23 adjacent to the territory in which the applicant ~~or applicants~~
24 ~~reside or operate~~ resides or operates. The commission shall serve
25 upon each ~~telephone carrier~~ telecommunications company directly
26 affected a copy of the application and notice of the hearing at
27 least thirty days prior to the hearing on the application, which
28 shall be held if all of the ~~telephone carriers~~ telecommunications

1 companies involved do not consent to the application.

2 Sec. 35. Section 75-613, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~75-613.~~ Upon the completion of the hearing on such an
5 application made pursuant to section ~~75-612~~ 34 of this act, if a
6 hearing is required, the commission may grant the application, in
7 whole or in part, if the evidence establishes all of the following:

8 (1) That such applicant ~~or applicants~~ are is not
9 receiving, and will not within a reasonable time receive,
10 reasonably adequate exchange telephone service from the ~~carrier~~
11 telecommunications company which furnishes such service in the
12 exchange service area in which the applicant ~~or applicants~~ reside
13 ~~or operate~~ resides or operates. The fact that an applicant is
14 required to pay toll charges for long-distance telephone calls to
15 an exchange service area adjacent to the territory in which the
16 applicant resides or operates shall not be deemed to constitute
17 inadequate exchange telephone service from the ~~carrier~~
18 telecommunications company which furnishes such service;

19 (2) The revision of the exchange service area required to
20 grant the application will not create a duplication of facilities,
21 is economically sound, and will not impair the capability of any
22 ~~telephone carrier~~ telecommunications company affected to serve the
23 remaining subscribers in any affected exchanges;

24 (3) The community of interest in the general territory is
25 such that the public offering of each ~~telephone carrier~~
26 telecommunications company in its own exchange service area
27 involved should include all the territory in its service area as
28 revised by the commission's order; and

1 (4) The applicant ~~or applicants are~~ is willing and will
2 be required to pay such construction and other costs and rates as
3 are fair and equitable and will reimburse the affected ~~carrier~~
4 telecommunications company for any necessary loss of investment in
5 existing property as determined by the commission.

6 Sec. 36. Section 75-614, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~75-614.~~ After the commission has lawfully granted an
9 application pursuant to section ~~75-613~~ 35 of this act, the
10 ~~telephone carrier~~ telecommunications company ordered to provide the
11 exchange telephone service shall be issued a certificate of
12 convenience and necessity to serve that portion of the territory
13 added to its exchange service area by the commission. The
14 commission shall set the date when the exchange telephone service
15 granted shall take effect and, in doing so, shall take into
16 consideration any construction or major repair which will be
17 required of the ~~carriers~~ telecommunications company involved.

18 Sec. 37. Section 75-615, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~75-615.~~ When the commission refuses to grant an
21 application made pursuant to section ~~75-612~~ 34 of this act, no new
22 application for the same exchange telephone service shall be filed
23 or shall be considered by the commission until one year has elapsed
24 after the date of mailing of the commission order.

25 Sec. 38. Section 86-803, Revised Statutes Supplement,
26 2000, is amended to read:

27 ~~86-803.~~ ~~(1) Telecommunications~~ Except as provided in the
28 Nebraska Telecommunications Regulation Act, telecommunications

1 companies shall not be subject to rate regulation by the commission
2 except as provided in sections 75-609.01 and 86-801 to 86-811 and
3 shall not be subject to provisions as to rates and charges
4 prescribed in sections 75-101 to 75-158. and 75-604 to 75-616,
5 except as otherwise provided in sections 75-609.01 and 86-801 to
6 86-811. In an exchange in which local competition exists,
7 telecommunications companies shall file rate lists for all
8 telecommunications services which shall be effective after ten
9 days' notice to the commission.

10 (2) In an exchange in which local competition does not
11 exist, telecommunications companies shall file rate lists which,
12 for all telecommunications service except for basic local exchange
13 rates, shall be effective after ten days' notice to the commission.
14 In such exchanges, basic local exchange rates may be increased by a
15 telecommunications company only after ninety days' notice to all
16 affected subscribers. Such notice of increase shall include (a)
17 the reasons for the rate increase, (b) a description of the
18 affected service, (c) an explanation of the right of the subscriber
19 to petition the commission for a public hearing on the rate
20 increase, (d) a list of exchanges which are affected by the
21 proposed rate increase, and (e) the dates, times, and places for
22 the public informational meetings required by this section. A
23 telecommunications company which proposes to increase its basic
24 local exchange rates shall hold at least one public informational
25 meeting in each public service commissioner district as established
26 by section 75-101.01 in which there is an exchange affected by the
27 increase.

28 (3) Basic local exchange rates increased by any

1 telecommunications company pursuant to subsection (2) of this
2 section shall be reviewed by the commission only upon formal
3 complaint signed by (a) five percent of all affected subscribers if
4 the telecommunications company has up to fifty thousand access
5 lines affected by the increase, (b) three percent of all affected
6 subscribers if the telecommunications company has fifty thousand
7 but not more than two hundred fifty thousand access lines affected
8 by the increase, or (c) two percent of all affected subscribers if
9 the telecommunications company has more than two hundred fifty
10 thousand access lines affected by the increase. The complaint
11 shall specifically set forth the particular rate or charge as to
12 which review is requested, the reasons for the requested review,
13 and the relief which the complainants desire. If a proper
14 complaint is presented to the commission within ninety days from
15 the date notice of the rate change was sent to affected subscribers
16 of a telecommunications company that has up to fifty thousand
17 access lines in service or within one hundred twenty days from the
18 date notice of the rate change was sent to affected subscribers of
19 a telecommunications company that has fifty thousand or more access
20 lines in service, the commission shall accept and file the
21 complaint and, upon proper notice, may suspend the rates and
22 charges at issue during the pendency of the proceedings and
23 reinstate the rates and charges previously in effect and shall hold
24 and complete a hearing thereon within ninety days after filing to
25 determine if the rates as proposed are fair, just, and reasonable.
26 The commission may, within sixty days after close of the hearing,
27 enter an order adjusting the rates and charges at issue, except
28 that the commission shall not set any rate or charge below the

1 actual cost of providing such service, which may include a
2 reasonable profit, as established by the evidence received at the
3 hearing. In such order, the commission may order a refund of
4 amounts collected in excess of the rates and charges as approved at
5 the hearing which may be paid as a credit against billings for
6 future services.

7 In an exchange in which local competition does not exist,
8 a telecommunications company shall not increase its basic local
9 exchange rates without the approval of the commission for six
10 months from the date the commission enters such order. If the
11 complaint is denied, the commission shall enter an order denying
12 the complaint within sixty days after the close of the hearing, and
13 the rates and charges shall be deemed approved for all purposes,
14 including for purposes of appeal.

15 For purposes of this section, actual cost shall also
16 include a ratable portion of administrative expenses and overhead
17 incurred by the telecommunications company in its operations and
18 the appropriate amortization of previously deferred accounting
19 costs.

20 (4) Notwithstanding the provisions of subsections (2),
21 (3), and (8) of this section, a telecommunications company may at
22 any time file an application with the commission requesting the
23 commission to prescribe fair, just, and reasonable rates for the
24 company or such telecommunications company may elect to proceed, if
25 eligible, under section 75-609.01. Such proceedings shall be
26 governed by sections 75-101 to 75-158 and 75-604 to 75-616 and
27 shall not be limited by subsection (2) of this section. Any rate
28 so set may thereafter be adjusted as provided in subsections (2)

1 and ~~(3)~~ of this section.

2 ~~(5)~~ In setting rates for interexchange services,
3 telecommunications companies that provide such services shall
4 continue to average their rates for all such services on a
5 statewide basis unless the commission, upon application and
6 hearing, orders otherwise. This subsection shall not prohibit
7 volume discounts or other discounts based on reasonable business
8 purposes. With regard to interexchange telecommunications
9 services, nothing in sections ~~86-801~~ to ~~86-811~~ shall preempt or
10 affect any right, liability, cause of action, duty, or obligation
11 arising from any law with regard to unfair business practices or
12 anticompetitive activity.

13 ~~(6)~~ No telecommunications company shall be required to
14 deaverage its wholesale basic local exchange rates to reflect the
15 differences in the costs of providing basic local exchange service
16 in the various exchanges that the company serves until the retail
17 basic local exchange rates for those exchanges are also deaveraged
18 or until funds are disbursed to that telecommunications company
19 from federal or state universal service or high-cost funds to
20 offset the higher-than-average costs which that company incurs in
21 serving high-cost exchanges.

22 ~~(7)~~ The commission shall retain quality of service
23 regulation over the services provided by all telecommunications
24 companies and shall investigate and resolve subscriber complaints
25 concerning quality of telecommunications service, subscriber
26 deposits, and disconnection of service. If such complaint cannot
27 be resolved informally, then, upon petition by the subscriber, the
28 commission shall set the matter for hearing in accordance with the

1 commission's rules and regulations for notice and hearing and may
2 by order render its decision granting or denying in whole or in
3 part the subscriber's petition or provide such other relief as is
4 reasonable based on the evidence presented to the commission at the
5 hearing. Any such order of the commission may be enforced against
6 any telecommunications company as provided in sections 75-140 to
7 75-144 and may be appealed in accordance with the Administrative
8 Procedure Act.

9 ~~(8)~~ In an exchange where local competition does not
10 exist, the commission may, on its own motion, review basic local
11 exchange rates of any telecommunications company if the company has
12 increased such rates by more than ten percent within any
13 consecutive twelve-month period. The commission shall hold and
14 complete a hearing on such rates within ninety days after first
15 giving notice of such hearing to the telecommunications company to
16 determine if the rates as proposed are fair, just, and reasonable.
17 The commission may, within sixty days after close of the hearing,
18 enter an order adjusting the rates and charges at issue, except
19 that the commission shall not set any rate or charge below the
20 actual cost of providing such service, which may include a
21 reasonable profit, as established by the evidence received at the
22 hearing. In such order, the commission may order a refund of
23 amounts collected in excess of the rates and charges as approved at
24 the hearing which may be paid as a credit against billings for
25 future services. If the commission fails to enter any order within
26 sixty days after the close of the hearing, the rates and charges
27 shall be deemed approved for all purposes, including for purposes
28 of appeal. For purposes of this subsection, actual cost shall also

1 include a ratable portion of administrative expenses and overhead
2 incurred by the telecommunications company in its operations and
3 the appropriate amortization of previously deferred accounting
4 costs.

5 (9) Notwithstanding any other provisions of this section
6 providing procedures governing review of basic local exchange rate
7 increases, when a telecommunications company files a rate list to
8 increase its basic local exchange rates by more than ten percent
9 within any consecutive twelve-month period, the commission shall
10 conduct only the limited review provided in this subsection if (a)
11 such increase, when considered together with all other rate changes
12 which the telecommunications company proposes to implement
13 simultaneously with the basic local exchange rate increase, does
14 not increase the telecommunications company's aggregate annual
15 revenue resulting from such rate changes in this state by more than
16 one percent and (b) the basic local exchange rates specified in the
17 rate list do not exceed the telecommunications company's actual
18 cost of providing basic local exchange service to the affected
19 subscribers.

20 A telecommunications company filing rate lists in
21 accordance with the procedures provided in this subsection shall
22 submit to the commission with such filing: (i) Documentation to
23 demonstrate that the combined effect of the proposed rate changes,
24 in the aggregate, will not increase such company's annual revenue
25 resulting from such rate changes in this state by more than one
26 percent and (ii) if the commission so requires, documentation to
27 demonstrate that the proposed basic local exchange rates do not
28 exceed such company's actual cost of providing such service to the

1 affected subscribers.

2 The commission shall hold a public hearing to receive
3 evidence concerning the basic local exchange rate increase proposed
4 by the telecommunications company. Unless an extension is granted,
5 such hearing shall be held within sixty days after the date on
6 which the rate list providing for such increase was filed with the
7 commission or, if the commission requires further documentation to
8 be filed with the rate list filing, within sixty days after the
9 date of receipt by the telecommunications company of notice for
10 further documentation from the commission. The commission upon its
11 own motion may grant a one-time, thirty-day extension for the
12 hearing date. If the telecommunications company presents evidence
13 at the hearing that such increase is in accordance with the
14 requirements of this subsection, not more than sixty days after the
15 close of such hearing the commission shall enter an order approving
16 or disapproving the proposed basic local exchange rate increase
17 and, if approved, the revised basic local exchange rates shall
18 become effective upon the entry of such order.

19 ~~(10)~~ The commission may order that flat rate services
20 shall be available whenever measured service is implemented and
21 that for such services the price restrictions prescribed in
22 sections ~~86-801~~ to ~~86-811~~ shall be retained. Measured service
23 means basic local exchange service, the rate for which is a
24 combination of a flat rate access line charge plus usage charges
25 which may be based upon number of calls, length of call, distance,
26 and time of day.

27 ~~(11)~~ The commission shall approve the disposition of
28 revenue resulting from decreases in federal or state income taxes

1 or property taxes due to a tax law change that results in a
2 reduction in the tax liability of a telecommunications company of
3 twenty percent or more in any taxable year. Any telecommunications
4 company so affected shall file a plan with the commission proposing
5 the disposition of the revenue at the same time that it files its
6 annual report with the commission. The commission shall schedule a
7 public hearing within thirty days after the filing of the plan or
8 the plan shall be deemed approved.

9 ~~(12)~~ No telecommunications company may change its basic
10 local exchange rate within ninety days after entry of a final order
11 adjusting such rate pursuant to subsections (4) and (8) of this
12 section.

13 ~~(13)~~ Any order of the commission entered pursuant to
14 authority granted in sections 86-801 to 86-811 may be appealed by
15 any party to the proceeding in accordance with the Administrative
16 Procedure Act.

17 ~~(14)~~ No telecommunications company that obtains at
18 wholesale rates basic local exchange service from another
19 telecommunications company that is available at retail to a
20 specific class of subscribers shall offer such service to a
21 different class of subscribers.

22 ~~(15)~~ The commission shall not mandate any arrangement
23 that requires interconnecting telecommunications companies to
24 engage in mutual recovery of costs through offsetting of reciprocal
25 obligations. This subsection shall not prohibit telecommunications
26 companies from entering voluntary agreements to engage in such an
27 agreement.

28 ~~(16)~~ Local competition shall be deemed to exist in an

1 exchange if a telecommunications company files an application with
2 the commission requesting a determination as to whether local
3 competition exists in one or more exchanges specified in the
4 application and the commission enters an order after public notice
5 and a hearing which determines that local competition exists in
6 such exchange or exchanges. The commission may, on its own motion
7 at any time after a determination as to whether local competition
8 exists, reexamine and redetermine the determination after notice
9 and a hearing on the issue. Notwithstanding any other provision of
10 sections ~~86-801 to 86-811~~, the commission may consider any wireless
11 telecommunications services provided in the exchange or exchanges
12 when determining whether local competition exists. The notice of
13 the hearing on the telecommunications company's application shall
14 be given once each week for two consecutive weeks in a newspaper of
15 general circulation in the affected area and shall state that a
16 determination of local competition may result in the freeing of the
17 telecommunications company from rate regulation by the commission.
18 The notice of the hearing on the commission's motion shall be sent
19 to the telecommunications company by certified mail, return receipt
20 requested, and notice of such hearing shall be published in a
21 newspaper of general circulation in the exchange area. The hearing
22 on the commission's motion shall be held no sooner than ten days
23 after the receipt of notice to the telecommunications company.

24 Sec. 39. Section 75-609, Revised Statutes Supplement,
25 2000, is amended to read:

26 ~~75-609.~~ (1) When two or more telephone carriers jointly
27 furnish interexchange service or extended area service, the revenue
28 from such jointly furnished service shall be divided in such manner

1 as may be agreed upon by the carriers furnishing such service. In
2 the event of inability to agree, any one of the carriers jointly
3 furnishing such service may file an application with the commission
4 requesting that the commission enter an order prescribing an
5 equitable division of revenue from such jointly furnished service.

6 ~~(2)~~ Access charges imposed by telephone carriers
7 telecommunications companies for access to a local exchange network
8 for interexchange ~~services~~ service shall be negotiated by the
9 ~~carriers~~ telecommunications companies involved. Any affected
10 ~~carrier~~ telecommunications company may apply for review of such
11 charges by the commission or the commission may make a motion to
12 review such charges. Upon such application or motion and unless
13 otherwise agreed to by all parties thereto, the commission shall,
14 upon proper notice, hold and complete a hearing thereon within
15 sixty days of the filing. The commission may, within sixty days
16 after the close of the hearing, enter an order setting access
17 charges which are fair and reasonable. The commission shall set an
18 access charge structure for each local exchange carrier but may
19 order discounts where there is not available access of equal type
20 and quality for all interexchange carriers, except that the
21 commission shall not order access charges which would cause the
22 annual revenue to be realized by the local exchange carrier from
23 all interexchange carriers to be less than the annual costs, as
24 determined by the commission based upon evidence received at
25 hearing, incurred or which will be incurred by the local exchange
26 carrier in providing such access services. Any actions taken
27 pursuant to this subsection shall be substantially consistent with
28 the federal act and federal actions taken under its authority.

1 ~~(3)~~ (2) Reductions made to access charges pursuant to
2 subsection ~~(2)~~ (1) of this section shall be passed on to the
3 customers of interexchange service carriers in Nebraska whose
4 payment of charges have been reduced. The commission shall have
5 the power and authority to (a) ensure that any access charge
6 reductions made pursuant to subsection ~~(2)~~ (1) of this section are
7 passed on in a manner that is fair and reasonable. ~~The commission~~
8 ~~shall have the power to~~ and (b) review actions taken by any
9 ~~telephone carrier~~ telecommunications company to ensure that this
10 subsection is carried out.

11 ~~(4)~~ Any party to a proceeding under this section may
12 appeal an order of the commission in accordance with the
13 Administrative Procedure Act.

14 ~~(5)~~ (3) For purposes of this section, access charges
15 means the charges paid by ~~telephone carriers~~ telecommunications
16 companies to local exchange carriers in order to originate and
17 terminate calls using local exchange facilities.

18 Sec. 40. Section 75-609.01, Revised Statutes Supplement,
19 2000, is amended to read:

20 ~~75-609.01.~~ (1) ~~Telephone carriers~~ Telecommunications
21 companies which serve less than five percent of the state's
22 subscriber lines in the aggregate statewide shall not be subject to
23 rate regulation by the commission pursuant to ~~section 75-609~~
24 sections 39 and 52 of this act unless (a) the ~~carrier~~
25 telecommunications company elects by action of its board of
26 directors to be subject to such rate regulation by the commission,
27 (b) the proposed rate increase exceeds thirty percent in any one
28 year, (c) five percent of the subscribers petition the commission

1 to regulate rates pursuant to subsections (2) through (4) of this
2 section, or (d) the commission declares that the ~~carrier~~
3 telecommunications company shall be subject to rate regulation by
4 the commission pursuant to subsection (5) of this section.

5 (2) Each such ~~telephone carrier~~ telecommunications
6 company not subject to rate regulation shall, at least ninety days
7 before the effective date of any proposed rate change, notify the
8 commission and each of the ~~carrier's~~ telecommunications company's
9 subscribers of the proposed rate change. Notice to the commission
10 shall include a list of the ~~carrier's~~ telecommunications company's
11 published subscribers. Notice by the ~~carrier~~ telecommunications
12 company to all subscribers shall be in a form prescribed by the
13 commission, shall be by first-class mail, and shall include a
14 schedule of the proposed rates, the effective date of the rates,
15 and the procedure necessary for the subscribers to petition the
16 commission to determine rates in lieu of the proposed rates.

17 (3) The subscribers of a ~~telephone carrier~~
18 telecommunications company not subject to the commission's rate
19 regulation may petition the commission to determine rates in lieu
20 of any rate change proposed by the ~~carrier~~ telecommunications
21 company pursuant to subsection (2) of this section. A petition
22 substantially in compliance with the rules and regulations of the
23 commission shall not be deemed invalid due to minor errors in its
24 form.

25 (4) If, by the effective date of the ~~carrier's~~
26 telecommunications company's proposed rate change, the commission
27 has received petitions from less than five percent of the
28 subscribers requesting that the commission determine rates, the

1 commission shall certify such fact to the ~~carrier~~
2 telecommunications company and the ~~carrier's~~ telecommunications
3 company's proposed rates shall become effective as published in the
4 notice to subscribers. If, on or before the effective date of the
5 proposed rate change, the commission has received petitions from
6 five percent or more of the subscribers requesting that the
7 commission determine rates, the commission shall notify the ~~carrier~~
8 telecommunications company that it will determine rates for the
9 ~~carrier~~ telecommunications company in lieu of the ~~carrier's~~
10 telecommunications company's proposed rate change. Rates
11 established by the commission or by a ~~telephone carrier~~
12 telecommunications company pursuant to subsections (2) through (4)
13 of this section shall be in force for at least one year.

14 (5) In addition to the procedure for petition prior to
15 any proposed rate change pursuant to subsections (2) through (4) of
16 this section, the subscribers of a ~~telephone carrier~~
17 telecommunications company not subject to the commission's rate
18 regulation may at any time petition the commission to declare that
19 the ~~carrier~~ telecommunications company shall be subject to such
20 rate regulation. If the commission determines that at least
21 fifty-one percent of a ~~carrier's~~ telecommunications company's
22 subscribers have properly petitioned that the ~~carrier~~
23 telecommunications company be subject to the commission's rate
24 regulation, the commission shall certify such fact to the ~~carrier~~
25 telecommunications company and thereafter the ~~carrier~~
26 telecommunications company shall be subject to rate regulation by
27 the commission until at least fifty-one percent of the ~~carrier's~~
28 telecommunications company's subscribers properly petition that the

1 ~~carrier~~ telecommunications company no longer shall be subject to
2 the commission's rate regulation. This section shall not be
3 construed to exempt any local exchange carrier from regulation of
4 its access charges pursuant to ~~subsection (2) or (3) of section~~
5 ~~75-609~~ 39 of this act.

6 Sec. 41. A telecommunications company may offer special
7 incentives, discounts, packaged offerings, temporary price waivers,
8 or other promotions and may introduce new telecommunications
9 service and discontinue existing telecommunications service by
10 filing rate lists which shall be effective after ten days' notice
11 to the commission.

12 Sec. 42. (1) In an exchange in which local competition
13 exists, telecommunications companies shall file rate lists for each
14 telecommunications service which shall be effective after ten days'
15 notice to the commission.

16 (2) Local competition shall be deemed to exist in an
17 exchange if a telecommunications company files an application with
18 the commission requesting a determination as to whether local
19 competition exists in one or more exchanges specified in the
20 application and the commission enters an order after public notice
21 and a hearing which determines that local competition exists in
22 such exchange or exchanges. Notwithstanding any other provision of
23 the Nebraska Telecommunications Regulation Act, the commission may
24 consider any wireless telecommunications service provided in the
25 exchange or exchanges when determining whether local competition
26 exists.

27 (3) The notice of the hearing on the telecommunications
28 company's application shall be given once each week for two

1 consecutive weeks in a newspaper of general circulation in the
2 affected area and shall state that a determination of local
3 competition may result in the freeing of the telecommunications
4 company from rate regulation by the commission. The notice of the
5 hearing on the commission's motion shall be sent to the
6 telecommunications company by certified mail, return receipt
7 requested, and notice of such hearing shall be published in a
8 newspaper of general circulation in the exchange area. The hearing
9 on the commission's motion shall be held no sooner than ten days
10 after the receipt of notice by the telecommunications company.

11 (4) The commission may, on its own motion at any time
12 after a determination as to whether local competition exists,
13 reexamine and redetermine the determination after notice and a
14 hearing on the issue.

15 Sec. 43. (1) In an exchange in which local competition
16 does not exist, telecommunications companies shall file rate lists
17 which, for all telecommunications service except for basic local
18 exchange rates, shall be effective after ten days' notice to the
19 commission.

20 (2) In an exchange in which local competition does not
21 exist, basic local exchange rates may be increased by a
22 telecommunications company only after ninety days' notice to all
23 affected subscribers. Such notice of increase shall include (a)
24 the reasons for the rate increase, (b) a description of the
25 affected telecommunications service, (c) an explanation of the
26 right of the subscriber to petition the commission for a public
27 hearing on the rate increase, (d) a list of exchanges which are
28 affected by the proposed rate increase, and (e) the dates, times,

1 and places for the public informational meetings required by this
2 section.

3 (3) A telecommunications company which proposes to
4 increase its basic local exchange rates shall hold at least one
5 public informational meeting in each public service commissioner
6 district as established by section 75-101.01 in which there is an
7 exchange affected by the proposed rate increase.

8 Sec. 44. (1) Basic local exchange rates increased by any
9 telecommunications company pursuant to section 43 of this act shall
10 be reviewed by the commission only upon formal complaint. The
11 complaint shall specifically set forth the particular rate as to
12 which review is requested, the reasons for the requested review,
13 and the relief which the complainant desire. The complaint shall
14 be signed by (a) five percent of all affected subscribers if the
15 telecommunications company has up to fifty thousand access lines
16 affected by the rate increase, (b) three percent of all affected
17 subscribers if the telecommunications company has fifty thousand
18 but not more than two hundred fifty thousand access lines affected
19 by the rate increase, or (c) two percent of all affected
20 subscribers if the telecommunications company has more than two
21 hundred fifty thousand access lines affected by the rate increase.

22 (2) If a proper complaint is presented to the commission
23 within ninety days from the date notice of the rate change was sent
24 to affected subscribers of a telecommunications company that has up
25 to fifty thousand access lines in service or within one hundred
26 twenty days from the date notice of the rate change was sent to
27 affected subscribers of a telecommunications company that has fifty
28 thousand or more access lines in service, the commission (a) shall

1 accept and file the complaint, (b) upon proper notice, may suspend
2 the rates at issue during the pendency of the proceedings and
3 reinstate the rates previously in effect, and (c) shall hold and
4 complete a hearing thereon within ninety days after filing to
5 determine if the rates as proposed are fair, just, and reasonable.

6 (3) The commission may, within sixty days after close of
7 the hearing, enter an order adjusting the rates at issue, except
8 that the commission shall not set any rate below the actual cost of
9 providing such service, which may include a reasonable profit, as
10 established by the evidence received at the hearing. In such
11 order, the commission may order a refund of amounts collected in
12 excess of the rates as approved at the hearing which may be
13 reimbursed as a credit against billings for future services.

14 (4) A telecommunications company shall not increase its
15 basic local exchange rates without the approval of the commission
16 for six months from the date the commission enters an order
17 pursuant to subsection (2) of this section. If the complaint is
18 denied, the commission shall enter an order denying the complaint
19 within sixty days after the close of the hearing, and the rates
20 proposed by the telecommunications company shall be deemed approved
21 for all purposes, including for purposes of appeal.

22 (5) For purposes of this section, actual cost includes a
23 ratable portion of administrative expenses and overhead incurred by
24 the telecommunications company in its operations and the
25 appropriate amortization of previously deferred accounting costs.

26 Sec. 45. (1) In an exchange in which local competition
27 does not exist, the commission may, on its own motion, review basic
28 local exchange rates of any telecommunications company if the

1 company has increased such rates by more than ten percent within
2 any consecutive twelve-month period. The commission shall hold and
3 complete a hearing on such rates within ninety days after first
4 giving notice of such hearing to the telecommunications company to
5 determine if the rates as proposed are fair, just, and reasonable.

6 (2) The commission may, within sixty days after close of
7 the hearing, enter an order adjusting the rates at issue, except
8 that the commission shall not set any rate for providing such
9 telecommunications service below its actual cost as defined in
10 section 44 of this act, which may include a reasonable profit, as
11 established by the evidence received at the hearing. In such
12 order, the commission may order a refund of amounts collected in
13 excess of the rates as approved at the hearing which may be
14 reimbursed as a credit against billings for future services.

15 (3) If the commission fails to enter any order within
16 sixty days after the close of the hearing, the rates proposed by
17 the telecommunications company shall be deemed approved for all
18 purposes, including for purposes of appeal.

19 (4) No telecommunications company may change its basic
20 local exchange rates within ninety days after entry of a final
21 order adjusting such rates pursuant to this section.

22 Sec. 46. Notwithstanding the provisions of sections 43
23 to 45 of this act, a telecommunications company may at any time
24 file an application with the commission requesting the commission
25 to prescribe fair, just, and reasonable rates for the
26 telecommunications company or a telecommunications company may
27 elect to proceed, if eligible, under section 40 of this act. Such
28 proceedings shall be governed by sections 75-101 to 75-158 and

1 sections 39, 40, and 52 of this act and shall not be limited by
2 section 43 of this act. Any rate so set may thereafter be adjusted
3 as provided in sections 43 and 44 of this act, however no
4 telecommunications company may change its basic local exchange rate
5 within ninety days after entry of a final order adjusting such rate
6 pursuant to this section.

7 Sec. 47. (1) Notwithstanding the procedures governing
8 review of basic local exchange rate increases in sections 43 to 45
9 of this act, when a telecommunications company files a rate list to
10 increase its basic local exchange rates by more than ten percent
11 within any consecutive twelve-month period, the commission shall
12 conduct only the limited review provided in this section if (a)
13 such increase, when considered together with all other rate changes
14 which the telecommunications company proposes to implement
15 simultaneously with the basic local exchange rate increase, does
16 not increase the telecommunications company's aggregate annual
17 revenue resulting from such rate changes in this state by more than
18 one percent and (b) the basic local exchange rates specified in the
19 rate list do not exceed the telecommunications company's actual
20 cost as defined in section 44 of this act of providing basic local
21 exchange service to the affected subscribers.

22 (2) A telecommunications company filing rate lists in
23 accordance with the procedures provided in this section shall
24 submit to the commission with such filing: (a) Documentation to
25 demonstrate that the combined effect of the proposed rate changes,
26 in the aggregate, will not increase the telecommunications
27 company's annual revenue resulting from such rate changes in this
28 state by more than one percent and (b) if the commission so

1 requires, documentation to demonstrate that the proposed basic
2 local exchange rates do not exceed the telecommunications company's
3 actual cost as defined in section 44 of this act of providing basic
4 local exchange service to the affected subscribers.

5 (3) The commission shall hold a public hearing to receive
6 evidence concerning the basic local exchange rate increase proposed
7 by the telecommunications company. Unless an extension is granted,
8 such hearing shall be held within sixty days after the date on
9 which the rate list providing for such increase was filed with the
10 commission or, if the commission requires further documentation to
11 be filed with the rate list filing, within sixty days after the
12 date of receipt by the telecommunications company of notice for
13 further documentation from the commission. The commission upon its
14 own motion may grant a one-time, thirty-day extension for the
15 hearing date. If the telecommunications company presents evidence
16 at the hearing that such increase is in accordance with this
17 section, not more than sixty days after the close of such hearing
18 the commission shall enter an order approving or disapproving the
19 proposed basic local exchange rate increase and, if approved, the
20 revised basic local exchange rates shall become effective upon the
21 entry of such order.

22 Sec. 48. In setting rates for interexchange service,
23 telecommunications companies that provide interexchange service
24 shall continue to average their rates for all interexchange service
25 on a statewide basis unless the commission, upon application and
26 hearing, orders otherwise. This section shall not prohibit volume
27 discounts or other discounts based on reasonable business purposes.
28 With regard to interexchange service, nothing in the Nebraska

1 Telecommunications Regulation Act shall preempt or affect any
2 right, liability, cause of action, duty, or obligation arising from
3 any law with regard to unfair business practices or anticompetitive
4 activity.

5 Sec. 49. No telecommunications company shall be required
6 to deaverage its wholesale basic local exchange rates to reflect
7 the differences in the costs of providing basic local exchange
8 service in the various exchanges that the telecommunications
9 company serves until the retail basic local exchange rates for
10 those exchanges are also deaveraged or until funds are disbursed to
11 such telecommunications company from federal or state universal
12 service or high-cost funds to offset the higher-than-average costs
13 which such telecommunications company incurs in serving high-cost
14 exchanges.

15 Sec. 50. A telecommunications company that obtains at
16 wholesale rates basic local exchange service from another
17 telecommunications company that is available at retail to a
18 specific class of subscribers shall not offer such basic local
19 exchange service to a different class of subscribers.

20 Sec. 51. The commission may order that flat rate service
21 shall be available whenever measured service is implemented and
22 that for such service the price restrictions prescribed in the
23 Nebraska Telecommunications Regulation Act shall be retained.
24 Measured service means basic local exchange service, the rate for
25 which is a combination of a flat rate access line charge plus usage
26 charges which may be based upon number of calls, length of calls,
27 distance of calls, and time of day.

28 Sec. 52. When two or more telecommunications companies

1 jointly furnish interexchange service or extended area service, the
2 revenue from such jointly furnished service shall be divided in
3 such manner as may be agreed upon by the telecommunications
4 companies furnishing such service. In the event of inability to
5 agree, any one of the telecommunications companies jointly
6 furnishing such service may file an application with the commission
7 requesting that the commission enter an order prescribing an
8 equitable division of revenue from such jointly furnished service.

9 Sec. 53. The commission shall approve the disposition of
10 revenue resulting from decreases in federal or state income taxes
11 or property taxes due to a tax law change that results in a
12 reduction in the tax liability of a telecommunications company of
13 twenty percent or more in any taxable year. Any telecommunications
14 company so affected shall file a plan with the commission proposing
15 the disposition of the revenue at the same time that it files its
16 annual report with the commission. The commission shall schedule a
17 public hearing within thirty days after the filing of the plan or
18 the plan shall be deemed approved.

19 Sec. 54. Applications for commission approval of
20 specific new rates or charges or changes in existing rates or
21 charges for telecommunications service which have not been heard
22 and determined within six months and thirty days from the date the
23 application was filed may be put into effect by the
24 telecommunications company, in an amount not to exceed seventy-five
25 percent of the total amount of the application, subject to refund
26 of any amount collected in excess of the amount which would have
27 been collected under the new or changed rates or charges as finally
28 approved by the commission. The refund shall include an interest

1 payment at a rate of interest determined by the commission, except
2 that the rate of interest shall not exceed the overall rate of
3 return which the telecommunications company is authorized to earn.
4 When making its final determination on the application, the
5 commission shall not consider the rates and charges of the
6 telecommunications company put into effect pending such final
7 determination. This section shall not apply to tariffs placed into
8 effect under section 55 of this act.

9 Sec. 55. Section 75-616, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~75-616.~~ Whenever any ~~telephone carrier~~
12 telecommunications company files a specific tariff for any new
13 equipment, new telecommunications service feature of existing
14 equipment, or rate not previously offered and the commission has
15 not finally determined the tariff within sixty days thereafter, it
16 shall become effective as filed. The tariff shall remain in effect
17 until the commission determines an appropriate interim tariff or
18 finally determines the matter. This section shall not apply to
19 services of a type offered only by regulated ~~telephone carriers~~
20 telecommunications companies.

21 Sec. 56. Section 86-810, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-810.~~ Whenever any municipality or any other local
24 governmental entity imposes upon a telecommunications company any
25 tax or fee as described in section 413 of this act, such tax or fee
26 shall, insofar as practicable, be billed pro rata to the
27 telecommunications company's customers receiving ~~communications~~
28 ~~services~~ telecommunications service within the territorial limits

1 of such municipality or other local governmental entity.

2 Sec. 57. Section 86-811, Revised Statutes Supplement,
3 2000, is amended to read:

4 ~~86-811.~~ (1) Except as otherwise provided in section 24
5 of this act, any order of the commission entered pursuant to
6 authority granted in the Nebraska Telecommunications Regulation Act
7 may be appealed by any party to the proceeding. The appeal shall
8 be in accordance with the Administrative Procedure Act.

9 (2) An original action or appeal concerning a violation
10 of any provision of section 75-109, 75-604, 75-609, 75-609.01, or
11 86-801 to 86-810 the Nebraska Telecommunications Regulation Act by
12 a telecommunications company shall follow the procedures set forth
13 in section 75-132.01.

14 ~~(2) In addition, the commission may administratively fine~~
15 ~~pursuant to section 75-156 any person who violates subsection (2)~~
16 ~~of section 75-109 or section 75-604, 75-609, 75-609.01, or 86-801~~
17 ~~to 86-810.~~

18 Sec. 58. A telecommunications company shall:

19 (1) Keep accounts according to commission rules and
20 regulations;

21 (2) File financial reports in a form and at times
22 prescribed by the commission;

23 (3) File current price lists and service standards
24 prescribed by the commission; and

25 (4) Cooperate with commission investigations of customer
26 complaints.

27 Sec. 59. Section 75-617, Revised Statutes Supplement,
28 2000, is amended to read:

1 ~~75-617.~~ The commission may administratively fine
2 pursuant to section 75-156 any person who violates ~~sections 75-611~~
3 ~~to 75-616~~ the Nebraska Telecommunications Regulation Act.

4 Sec. 60. Section 75-606, Revised Statutes Supplement,
5 2000, is amended to read:

6 ~~75-606.~~ The commission may revoke or suspend the
7 certificate of convenience of any violator of section ~~75-605.~~ Any
8 person who violates any provision of such section 29 of this act is
9 ~~shall be~~ guilty of a Class V misdemeanor. The commission shall
10 enforce such section, and the Attorney General or any county
11 attorney shall, upon request of the commission, assist in the
12 prosecution of any violations of such section. ~~In addition, the~~
13 ~~commission may administratively fine pursuant to section 75-156 any~~
14 ~~person who violates section 75-605.~~

15 Sec. 61. Section 75-610, Revised Statutes Supplement,
16 2000, is amended to read:

17 ~~75-610.~~ Any ~~telephone carrier~~ telecommunications company
18 or its agent who fails or neglects to comply with ~~sections 75-607~~
19 ~~to 75-609.01~~ section 30, 31, 39, 40, or 52 of this act or who
20 violates any of the provisions of such sections ~~shall be~~ is guilty
21 of a Class IV misdemeanor. ~~In addition, the commission may~~
22 ~~administratively fine pursuant to section 75-156 any such carrier~~
23 ~~or agent who violates sections 75-607 to 75-609.01.~~

24 Sec. 62. Section 86-804, Revised Statutes Supplement,
25 2001, is amended to read:

26 ~~86-804.~~ The commission shall file with the Clerk of the
27 Legislature an annual report on or before September 30 of each year
28 on the status of the Nebraska telecommunications industry. The

1 report may be submitted in electronic format. The report shall:
2 ~~address.~~

3 (1) ~~The~~ Describe the quality of telecommunications
4 ~~services~~ service being provided to the citizens of Nebraska;

5 (2) Describe the availability of diverse and affordable
6 telecommunications ~~services~~ service to all of the people of
7 Nebraska;

8 (3) Describe the level of telecommunications service
9 rates;

10 (4) Describe the use and continued need for the Nebraska
11 Telecommunications Universal Service Fund;

12 (5) Describe the availability and location of 911 service
13 and E-911 service as required by section ~~86-1005~~ 242 of this act;
14 ~~and~~

15 (6) Describe the availability and location of wireless
16 911 service or enhanced wireless 911 service as required by section
17 ~~86-2205.~~ The report also shall address the question of 265 of this
18 act; and

19 (7) Address the need for further legislation to achieve
20 the purposes of ~~sections 86-801 to 86-811~~ the Nebraska
21 Telecommunications Regulation Act.

22 Sec. 63. Section 86-1901, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~86-1901.~~ Sections ~~86-1901 to 86-1911~~ 63 to 73 of this
25 act shall be known and may be cited as the Telephone Consumer
26 Slamming Prevention Act.

27 Sec. 64. Section 86-1902, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-1902.~~ It is the policy of this state to ensure that
2 all subscribers are protected from the unauthorized switching of a
3 telecommunications company selected by the subscriber to provide
4 telecommunications service.

5 Sec. 65. Section 86-1903, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-1903.~~ For purposes of the Telephone Consumer Slamming
8 Prevention Act, the definitions found in ~~section 86-802~~ shall be
9 ~~used~~ the Nebraska Telecommunications Regulation Act apply.

10 Sec. 66. Section 86-1904, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-1904.~~ Except as provided in section ~~86-802~~ 25 of this
13 act, the Telephone Consumer Slamming Prevention Act shall apply to
14 all telecommunications companies providing basic local exchange
15 service, intra-LATA interexchange service, inter-LATA interexchange
16 service, and any other telecommunications ~~services~~ service to
17 subscribers in this state.

18 Sec. 67. Section 86-1905, Revised Statutes Supplement,
19 2001, is amended to read:

20 ~~86-1905.~~ (1) (a) Except as provided in subsection (2) of
21 this section, no telecommunications company shall submit on behalf
22 of a subscriber a change ~~in~~ of the subscriber's provider of basic
23 local exchange service, intra-LATA interexchange service, or
24 inter-LATA interexchange service without:

25 ~~(a)~~ (i) Written change authorization from the subscriber;
26 ~~(b)~~ (ii) Toll-free electronic authorization placed from
27 the telephone number which is the subject of the change of service
28 order; or

1 ~~(e)~~ (iii) Oral authorization obtained by an independent
2 third party.

3 (b) A separate and distinct authorization shall be
4 required to submit a change of service order for any or all of the
5 following telecommunications services provided to subscribers in
6 this state: Basic local exchange service, intra-LATA interexchange
7 service, inter-LATA interexchange service, or any other
8 telecommunications ~~services~~ service.

9 (2) The requirements of this section shall not apply to a
10 change ~~in~~ of a subscriber's provider of basic local exchange
11 service, intra-LATA interexchange service, or inter-LATA
12 interexchange service that results from any merger or sale of
13 exchanges or transfer of authority approved by the commission.

14 Sec. 68. Section 86-1906, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-1906.~~ Within thirty days after a subscriber changes
17 his or her authorized provider of basic local exchange service,
18 intra-LATA interexchange service, or inter-LATA interexchange
19 service, the new authorized service provider shall provide to such
20 subscriber written confirmation of such change of service. The
21 written confirmation shall (1) describe clearly and simply the
22 nature of the ~~subscription~~ change of service, (2) not be a part of,
23 or attached to, any other document, (3) not contain any promotion,
24 offer, or inducement, and (4) be mailed to the subscriber's billing
25 address.

26 Sec. 69. Section 86-1907, Revised Statutes Supplement,
27 2001, is amended to read:

28 ~~86-1907.~~ (1) Nothing in the Telephone Consumer Slamming

1 Prevention Act shall preclude a subscriber from electing to resolve
2 an unauthorized change ~~in~~ of service directly with the unauthorized
3 telecommunications company. If the subscriber is unsatisfied with
4 the resolution from the unauthorized telecommunications company,
5 the subscriber may file a complaint with the commission. The
6 complaint may be made by letter, fax, on-line notification, or
7 telephone call to the commission. The subscriber may be required
8 to provide a copy of the subscriber's telephone bill that contains
9 the alleged unauthorized telecommunications company's charges.

10 (2) The commission, consistent with applicable federal
11 rules and regulations including rules and regulations of the
12 Federal Communications Commission which implement section 258 of
13 the federal act, shall adopt and promulgate rules and regulations
14 necessary for resolution of subscriber complaints of an
15 unauthorized change ~~in~~ of service.

16 Sec. 70. Section 86-1908, Revised Statutes Supplement,
17 2001, is amended to read:

18 ~~86-1908.~~ If the commission finds that a
19 telecommunications company has violated section ~~86-1905~~ 67 of this
20 act, the commission shall order the telecommunications company to
21 take corrective action as necessary and consistent with rules and
22 regulations adopted and promulgated by the commission and the
23 Federal Communications Commission.

24 Sec. 71. Section 86-1909, Revised Statutes Supplement,
25 2001, is amended to read:

26 ~~86-1909.~~ (1) The commission may, after hearing, impose
27 an administrative penalty for a violation of the Telephone Consumer
28 Slamming Prevention Act. The penalty for a violation shall not

1 exceed two thousand dollars. Every violation associated with a
2 specific access line within the state shall be considered a
3 separate and distinct violation.

4 (2) The amount of an administrative penalty shall be
5 based on:

6 (a) The nature, circumstances, extent, and gravity of a
7 prohibited act;

8 (b) The history of previous violations;

9 (c) The amount necessary to deter future violations; and

10 (d) Any efforts to correct the violation.

11 (3) Any money collected by the commission pursuant to
12 this section shall be remitted to the State Treasurer for credit to
13 the permanent school fund.

14 (4) Any administrative penalty may be appealed. The ~~7~~
15 ~~and the~~ appeal shall be in accordance with the Administrative
16 Procedure Act.

17 Sec. 72. Section 86-1910, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-1910.~~ The ~~Public Service Commission~~ commission shall
20 adopt and promulgate competitively neutral rules and regulations
21 necessary to implement the Telephone Consumer Slamming Prevention
22 Act, including rules and regulations that:

23 (1) Ensure that subscribers are protected from deceptive
24 practices in the obtaining of authorizations and verifications
25 required by section ~~86-1905~~ 67 of this act;

26 (2) Are applicable to all basic local exchange service,
27 intra-LATA interexchange service, inter-LATA interexchange service,
28 and any other telecommunications ~~services~~ service provided by

1 telecommunications companies in this state;

2 (3) Maintain records, provide procedures, and establish
3 performance standards for telecommunications companies with respect
4 to changes ~~in~~ of an authorized telecommunications company pursuant
5 to the act;

6 (4) Establish and administer a slamming complaint system
7 for subscribers of telecommunications service and enforce the
8 provisions of the act; and

9 (5) Are consistent with the rules and regulations
10 prescribed by the Federal Communications Commission for the
11 selection of telecommunications companies. The Public Service
12 Commission may adopt and promulgate rules and regulations
13 consistent with any regulations of the Federal Communications
14 Commission which are consistent with the purposes of the act.

15 Sec. 73. Section 86-1911, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~86-1911.~~ (1) No telecommunications company shall
18 initiate or bill additional telecommunications services not
19 required by the ~~Public Service Commission~~ commission to be offered
20 and for which the subscriber did not explicitly request or
21 subscribe. ~~If~~ The providing telecommunications company shall
22 initiate a refund of a charge or apply the charge as a credit to
23 the subscriber's next monthly bill if (a) a charge is assessed on a
24 per-use basis for a telecommunications service described in this
25 subsection and (b) the subscriber notifies the providing
26 telecommunications company that the subscriber did not utilize the
27 telecommunications service or the subscriber did not authorize the
28 utilization of the telecommunications service. ~~7 the providing~~

1 ~~telecommunications company shall initiate a refund of the charge or~~
2 ~~apply the charge as a credit to the subscriber's next monthly bill.~~

3 (2) If a providing telecommunications company receives a
4 notification pursuant to subdivision (1)(b) of this section, the
5 telecommunications company shall inform the subscriber of the
6 ability to block the telecommunications service ~~services~~ from
7 future use by the subscriber and shall block the telecommunications
8 service ~~services~~ from future use by the subscriber if the
9 subscriber so requests. If a subscriber requests that the company
10 not block the service or later requests to have the block lifted,
11 the subscriber shall be responsible for charges caused by the
12 future utilization of ~~such~~ the telecommunications service. The
13 company shall not charge a recurring fee for blocking ~~such~~ the
14 telecommunications service.

15 Sec. 74. Section 86-2001, Revised Statutes Supplement,
16 2001, is amended to read:

17 ~~86-2001.~~ Sections ~~86-2001 to 86-2014~~ 74 to 97 of this
18 act shall be known and may be cited as the Telemarketing and Prize
19 Promotions Act.

20 Sec. 75. Section 86-2002, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~86-2002.~~ For purposes of the Telemarketing and Prize
23 Promotions Act, the definitions found in sections 76 to 85 of this
24 act apply. +

25 ~~(1) Consumer means an actual or prospective purchaser,~~
26 ~~lessee, or recipient of consumer goods or services bought primarily~~
27 ~~for use for personal, family, or household purposes,~~

28 ~~(2) Consumer goods or services means any tangible~~

1 personal property, merchandise, or services normally used for
2 personal, family, or household purposes and not for resale or for
3 use or consumption in trade or business,

4 ~~(3) Consumer telephone call means a call made by a seller~~
5 ~~for the purpose of soliciting a sale of any consumer goods or~~
6 ~~services to the person called, for the purpose of soliciting an~~
7 ~~extension of credit for consumer goods or services to the person~~
8 ~~called, or for the purpose of obtaining information that may be~~
9 ~~used for the direct solicitation of a sale of consumer goods or~~
10 ~~services to the person called or an extension of credit for such~~
11 ~~purposes,~~

12 ~~(4) Prize means anything offered, or purportedly offered,~~
13 ~~and given, or purportedly given, to a person by chance. Prize does~~
14 ~~not include an item offered in a promotion for a book, recording,~~
15 ~~video, multimedia, or similar club in compliance with 16 C.F.R. 425~~
16 ~~or a continuity plan or single sale of merchandise or service where~~
17 ~~there is no minimum purchase required,~~

18 ~~(5) Prize promotion means (a) sweepstakes or other game~~
19 ~~of chance or (b) an oral or written express or implied~~
20 ~~representation that a person has won, has been selected to receive,~~
21 ~~or may be eligible to receive a prize or purported prize,~~

22 ~~(6) Seller means any person or organization who~~
23 ~~individually or through salespersons initiates unsolicited consumer~~
24 ~~telephone calls in order to (a) sell, lease, or rent consumer goods~~
25 ~~or services, (b) offer gifts or prizes with the intent to sell,~~
26 ~~lease, or rent consumer goods or services, or (c) represent to a~~
27 ~~consumer that the consumer has won or will receive a prize by~~
28 ~~telephonic means or by written notice sent through the mail in~~

1 which the goods and services and all the material terms of the
2 transaction are not fully described and which require that the
3 consumer contact the seller by telephone to learn about or initiate
4 the transaction. Seller does not include a telecommunications
5 company as defined in section 86-802 when the company is offering
6 telecommunications services of any kind which are subject to the
7 verification provisions of the Telephone Consumer Slamming
8 Prevention Act or 47 C.F.R. 64.1100 through 64.1190,

9 ~~(7) Solicitor means any person who is not the seller of~~
10 ~~goods and services offering a prize promotion who represents to an~~
11 ~~individual that the individual has won or will receive a prize,~~

12 ~~(8) Sponsor means any person on whose behalf a solicitor~~
13 ~~gives a prize but who is not the seller of goods and services~~
14 ~~offering a prize promotion,~~

15 ~~(9) Unsolicited consumer telephone call means a consumer~~
16 ~~telephone call other than a call made,~~

17 ~~(a) In response to an express request of the person~~
18 ~~called,~~

19 ~~(b) Primarily in connection with an existing debt or~~
20 ~~contract, payment or performance of which has not been completed at~~
21 ~~the time of such a call,~~

22 ~~(c) To any person with whom the seller has a clearly~~
23 ~~established business relationship, or~~

24 ~~(d) By a magazine or newspaper publisher or such~~
25 ~~publisher's agent or employee in connection with such publisher's~~
26 ~~business, and~~

27 ~~(10) Verifiable retail value means the price at which the~~
28 ~~solicitor or sponsor can demonstrate that a substantial number of~~

1 prizes have been sold within the prior twelve months by a person
2 other than the solicitor in the trade area in which the prize
3 notice is given, or no more than one and one-half times the amount
4 the solicitor or sponsor paid for the prize.

5 Sec. 76. Consumer means an actual or prospective
6 purchaser, lessee, or recipient of consumer goods or services
7 bought primarily for use for personal, family, or household
8 purposes.

9 Sec. 77. Consumer goods or services means any tangible
10 personal property, merchandise, or services normally used for
11 personal, family, or household purposes and not for resale or for
12 use or consumption in trade or business.

13 Sec. 78. Consumer telephone call means a telephone call
14 made by a seller for the purpose of soliciting a sale of any
15 consumer goods or services to the person called, for the purpose of
16 soliciting an extension of credit for consumer goods or services to
17 the person called, or for the purpose of obtaining information that
18 may be used for the direct solicitation of a sale of consumer goods
19 or services to the person called or an extension of credit for such
20 purposes.

21 Sec. 79. Prize means anything offered, or purportedly
22 offered, and given, or purportedly given, to a person by chance.
23 Prize does not include an item offered in a promotion for a book,
24 recording, video, multimedia, or similar club in compliance with 16
25 C.F.R. 425, as such regulation existed on the operative date of
26 this section, or a continuity plan or single sale of merchandise or
27 service where there is no minimum purchase required.

28 Sec. 80. Prize promotion means (1) a sweepstakes or

1 other game of chance or (2) an oral or written express or implied
2 representation that a person has won, has been selected to receive,
3 or may be eligible to receive a prize or purported prize.

4 Sec. 81. Seller means any person or organization who
5 individually or through salespersons initiates unsolicited consumer
6 telephone calls in order to (1) sell, lease, or rent consumer goods
7 or services, (2) offer gifts or prizes with the intent to sell,
8 lease, or rent consumer goods or services, or (3) represent to a
9 consumer that the consumer has won or will receive a prize by
10 telephonic means or by written notice sent through the mail in
11 which the goods and services and all the material terms of the
12 transaction are not fully described and which require that the
13 consumer contact the seller by telephone to learn about or initiate
14 the transaction. Seller does not include a telecommunications
15 company as defined in section 20 of this act when the
16 telecommunications company is offering telecommunications service
17 of any kind which are subject to the verification provisions of the
18 Telephone Consumer Slamming Prevention Act or 47 C.F.R. 64.1100
19 through 64.1190, as such regulations existed on the operative date
20 of this section.

21 Sec. 82. Solicitor means any person, who is not the
22 seller offering a prize promotion, who represents to an individual
23 that the individual has won or will receive a prize.

24 Sec. 83. Sponsor means any person on whose behalf a
25 solicitor gives a prize but who is not the seller offering a prize
26 promotion.

27 Sec. 84. Unsolicited consumer telephone call means a
28 consumer telephone call other than a call made:

1 (1) In response to an express request of the person
2 called;

3 (2) Primarily in connection with an existing debt or
4 contract, for which payment or performance has not been completed
5 at the time of such a call;

6 (3) To any person with whom the seller has a clearly
7 established business relationship; or

8 (4) By a magazine or newspaper publisher or such
9 publisher's agent or employee in connection with such publisher's
10 business.

11 Sec. 85. Verifiable retail value means the price (1) at
12 which the solicitor or sponsor can demonstrate that a substantial
13 number of prizes have been sold within the prior twelve months by a
14 person other than the solicitor in the trade area in which the
15 prize notice is given or (2) no more than one and one-half times
16 the amount the solicitor or sponsor paid for the prize.

17 Sec. 86. Section 86-2003, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-2003.~~ A seller may not obtain or submit for payment a
20 check, draft, or other form of negotiable paper drawn on a
21 consumer's checking, savings, share, or similar account, without
22 that consumer's express verifiable authorization. Such
23 authorization shall be deemed verifiable if any of the following
24 means are employed:

25 (1) Express written authorization by the consumer, which
26 may include the consumer's signature on the negotiable instrument;

27 (2) Express oral authorization which is tape recorded and
28 made available upon request to the consumer's financial institution

1 or to the consumer and which evidences clearly both the consumer's
2 authorization of payment for the goods and services that are the
3 subject of the sales offer and the consumer's receipt of all of the
4 following information:

5 (a) The date of the check, draft, or other form of
6 negotiable paper;

7 (b) The amount of the check, draft, or other form of
8 negotiable paper;

9 (c) The payor's name;

10 (d) The number of check, draft, or negotiable paper
11 payments, if more than one;

12 (e) A telephone number for consumer inquiry that is
13 answered during normal business hours; and

14 (f) The date of the consumer's oral authorization; or

15 (3) Written confirmation of the transaction, sent to the
16 consumer prior to submission for payment of the consumer's check,
17 draft, or other form of negotiable paper that includes:

18 (a) All of the information contained in subdivision (2)
19 of this section; and

20 (b) The procedures by which the consumer can obtain a
21 refund from the seller in the event the confirmation is inaccurate.

22 Sec. 87. Section 86-2004, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~86-2004.~~ (1) In addition to any other right to revoke an
25 offer:

26 (a) The consumer obligated for any part of the purchase
27 price may cancel the telephone sale until midnight of the fifth
28 business day after the day on which the consumer has received

1 written notice from the seller notifying the consumer of his or her
2 right to cancel the telephone sale. Written notice shall include
3 all of the information included in subdivision (2) of section
4 ~~86-2003~~ 86 of this act and the procedures by which a consumer may
5 obtain a refund; and

6 (b) The seller shall disclose the refund policy to the
7 consumer orally by telephone, in writing with advertising or
8 promotional material, or with delivery of the products or services,
9 and shall issue a refund within thirty days after the date on which
10 the seller receives returned merchandise or notice of cancellation.
11 A seller who discloses in writing that a sale is made or provided
12 "satisfaction guaranteed", "with free inspection", "no-risk
13 guarantee", or similar words or phrases shall be deemed to meet the
14 requirements of the review and return for refund policy.

15 (2) Subdivision (1)(a) of this section does not apply to
16 a sale in which the seller at a minimum has a policy of giving the
17 consumer the right to review goods or services for a period of at
18 least seven days after the date of delivery, accepting returns or
19 canceling services, and providing a refund for the return of its
20 unused and undamaged merchandise or canceled services.

21 Sec. 88. Section 86-2005, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-2005.~~ It ~~shall be~~ is unlawful for a seller to procure
24 the services of any third-party delivery, courier, or other pickup
25 service to obtain a consumer's payment for goods, unless the goods
26 are delivered and can be inspected.

27 Sec. 89. Section 86-2006, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-2006.~~ It ~~shall be~~ is unlawful for a seller to request
2 or receive payment or other consideration, in advance, from a
3 consumer to recover or otherwise aid in the return of money or any
4 other item lost by the consumer in a prior telemarketing
5 transaction. This section ~~shall~~ does not apply to services
6 provided to a consumer by an attorney licensed to practice law.

7 Sec. 90. Section 86-2007, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-2007.~~ In the case of prize promotions, it ~~shall be~~ is
10 unlawful for a seller to fail to provide the following information:

11 (1) The odds of winning or receiving the prize and, if
12 the odds are not calculable in advance, the factors used in
13 calculating the odds;

14 (2) That no purchase and no payment is necessary to win;

15 (3) All material costs or conditions to receive or redeem
16 a prize that is the subject of the prize promotion;

17 (4) The no-purchase or no-payment method of participating
18 in the prize promotion, with either instructions on how to
19 participate or an address or local or toll-free telephone number to
20 which customers may write or call for information on how to
21 participate;

22 (5) The true name and address of the solicitor, sponsor,
23 or seller offering a prize when the consumer is told he or she has
24 won or will receive a prize; and

25 (6) The verifiable retail value of each prize the
26 consumer is told he or she has won or will receive.

27 Sec. 91. Section 86-2008, Revised Statutes Supplement,
28 2001, is amended to read:

1 ~~86-2008.~~ A solicitor, sponsor, or seller ~~may not do any~~
2 ~~of the following shall not:~~

3 (1) Misrepresent the source of any written prize notice;

4 (2) Represent directly or by implication that the number
5 of individuals eligible for the prize is limited or that an
6 individual has won or will receive a particular prize unless that
7 representation is true;

8 (3) Misrepresent the value of a prize; or

9 (4) Request or accept any payment, or create an
10 impression that any payment is required, from an individual prior
11 to the receipt of a written prize notice by such individual if the
12 solicitor, sponsor, or seller represents to such individual that he
13 or she has won or will receive a prize. A written prize notice
14 under this subdivision shall contain all the information required
15 in section ~~86-2007~~ 90 of this act.

16 Sec. 92. Section 86-2009, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-2009.~~ Sellers ~~must~~ shall maintain records for
19 twenty-four months in compliance with 16 C.F.R. 310.5, as such
20 regulation existed on the operative date of this section.

21 Sec. 93. Section 86-2010, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-2010.~~ In any civil proceeding alleging a violation of
24 the Telemarketing and Prize Promotions Act, the burden of proving
25 an exemption from the act or an exemption from a definition in the
26 act is upon the person claiming it. In any criminal proceeding
27 alleging a violation of the act, the burden of producing evidence
28 pertaining to a definition or an exemption is upon the person

1 claiming it.

2 Sec. 94. Section 86-2011, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-2011. Nothing in the~~ The Telemarketing and Prize
5 Promotions Act shall not be construed to limit the remedies
6 available to consumers, the Attorney General, or any county
7 attorney under the Uniform Deceptive Trade Practices Act or any
8 other state or federal law.

9 Sec. 95. Section 86-2012, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~86-2012.~~ Any consumer that suffers a loss or harm as a
12 result of a violation of the Telemarketing and Prize Promotions Act
13 may recover actual damages, attorney's fees, court costs, and any
14 other remedies provided by law. The state, on behalf of its
15 residents who have suffered a loss or harm as a result of a
16 violation of the act, may seek actual damages or other remedies
17 provided by law.

18 Sec. 96. Section 86-2013, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-2013.~~ A violation of the Telemarketing and Prize
21 Promotions Act is a Class I misdemeanor.

22 Sec. 97. Section 86-2014, Revised Statutes Supplement,
23 2001, is amended to read:

24 ~~86-2014.~~ Any person who violates the Telemarketing and
25 Prize Promotions Act shall be subject to a civil penalty of not
26 more than two thousand dollars for each violation. The Attorney
27 General, acting in the name of the state, may seek recovery of such
28 civil penalties in a civil action.

1 Sec. 98. Sections 98 to 119 of this act shall be known
2 and may be cited as the Automatic Dialing-Announcing Devices Act.

3 Sec. 99. Section 86-1201, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~86-1201.~~ For purposes of ~~sections 86-1201 to 86-1222~~ the
6 Automatic Dialing-Announcing Devices Act, the definitions found in
7 ~~sections 86-1202 to 86-1207 shall be used~~ 100 to 105 of this act
8 apply.

9 Sec. 100. Section 86-1202, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~86-1202.~~ Automatic dialing-announcing device ~~shall mean~~
12 means a device which selects and dials telephone numbers and
13 automatically plays a recorded message.

14 Sec. 101. Section 86-1203, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-1203.~~ Commission ~~shall mean~~ means the Public Service
17 Commission.

18 Sec. 102. Section 86-1204, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-1204.~~ Emergency purposes ~~shall mean~~ means any
21 situation affecting the health and safety of a consumer.

22 Sec. 103. Section 86-1205, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~86-1205.~~ Established business relationship ~~shall mean~~
25 means a prior or existing relationship formed by a voluntary
26 two-way communication between a person and a residential or
27 business telephone subscriber, with or without an exchange of
28 consideration, on the basis of an inquiry, application, purchase,

1 or transaction by the subscriber regarding products or services
2 offered by the person, which relationship has not been previously
3 terminated by either party.

4 Sec. 104. Section 86-1206, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~86-1206.~~ Telephone solicitation ~~shall mean~~ means a
7 telephone call or message using an automatic dialing-announcing
8 device for the purpose of encouraging the purchase or rental of, or
9 investment in, property, goods, or services, which call or message
10 is transmitted to any person. ~~The term shall~~ Telephone
11 solicitation does not include a call or message (1) made to any
12 person with the person's prior express invitation or permission,
13 (2) made to any person with whom the caller has an established
14 business relationship, (3) made by a tax-exempt nonprofit
15 organization, (4) not made for commercial purposes, (5) made for a
16 commercial purpose but which does not include the transmission of
17 an unsolicited advertisement, or (6) placed by a live operator and
18 a prerecorded message is not utilized.

19 Sec. 105. Section 86-1207, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-1207.~~ Unsolicited advertisement ~~shall mean~~ means any
22 material advertising the commercial availability or quality of any
23 property, goods, or services which is transmitted to any person
24 without that person's prior express invitation or permission.

25 Sec. 106. Section 86-1208, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~86-1208.~~ A person shall not initiate a telephone
28 solicitation, other than a call made for emergency purposes, using

1 an automatic dialing-announcing device to: (1) An emergency
2 telephone line, including 911 or any emergency or business line of
3 a hospital, physician or medical service office, health care
4 facility, poison control center, fire protection agency, or law
5 enforcement agency; (2) the telephone line of any guest room or
6 patient room of a hospital, health care facility, nursing home, or
7 similar facility; (3) any telephone number assigned to a paging
8 service, a cellular telephone service, a specialized mobile radio
9 service, any other radio common carrier service, or any service for
10 which the person called is charged for the call; or (4) a
11 residential or business telephone line unless the telephone
12 solicitation is otherwise permitted by ~~sections 86-1201 to 86-1222~~
13 the Automatic Dialing-Announcing Devices Act.

14 Sec. 107. Section 86-1209, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-1209.~~ A person shall not use a telephone facsimile
17 machine, computer, or other device to send an unsolicited
18 advertisement to a telephone facsimile machine.

19 Sec. 108. Section 86-1210, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-1210.~~ A person shall not use an automatic
22 dialing-announcing device in such a way that two or more telephone
23 lines of a business with a multiline telephone system are engaged
24 simultaneously.

25 Sec. 109. Section 86-1211, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~86-1211.~~ All telephone solicitation messages delivered
28 by an automatic dialing-announcing device shall:

1 (1) At the beginning of the message, state clearly the
2 identity of the person making the call; and

3 (2) During or after the message, state clearly the
4 telephone number, other than that of the device which made the
5 call, or address of such person.

6 Sec. 110. Section 86-1212, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-1212.~~ (1) A person shall not make a telephone
9 solicitation using an automatic dialing-announcing device to a
10 residential telephone line (a) before 8 a.m. or after 9 p.m. at the
11 location of the person called and (b) unless the caller has
12 instituted procedures for maintaining a list of telephone
13 subscribers who do not wish to receive telephone solicitations made
14 by or on behalf of the caller.

15 (2) The procedures instituted pursuant to subdivision
16 (1)(b) of this section shall meet the following minimum standards:

17 (a) A written policy, available upon demand, for
18 maintaining a do-not-call list must be established;

19 (b) Personnel engaged in any aspect of telephone
20 solicitation must be informed of the existence of and trained in
21 the use of the do-not-call list;

22 (c) If a person making a telephone solicitation, or on
23 whose behalf a solicitation is made, receives a request from a
24 residential or business telephone subscriber not to receive calls
25 from that person, the person shall record the request and place the
26 subscriber's name and telephone number on the do-not-call list and
27 the time the request is made. If the requests are recorded or
28 maintained by someone other than the person on whose behalf the

1 telephone solicitation is made, the person on whose behalf the
2 solicitation is made shall be liable for any failure to honor the
3 do-not-call request. In order to protect a telephone subscriber's
4 privacy, a person making telephone solicitations shall obtain a
5 telephone subscriber's prior express consent to share the telephone
6 subscriber's request not to be called with, or to forward such
7 request to, someone other than the person on whose behalf a
8 telephone solicitation is made or an affiliated entity;

9 (d) A person making a telephone solicitation shall
10 provide the person called with the identity of the person making
11 the call and a telephone number, other than that of the device
12 which placed the call, or address at which the person may be
13 contacted;

14 (e) In the absence of a specific request by a telephone
15 subscriber to the contrary, a residential or business telephone
16 subscriber's do-not-call request shall apply to the particular
17 person making the call or on whose behalf a call is made and shall
18 not apply to affiliated entities unless the telephone subscriber
19 reasonably would expect them to be included given the
20 identification of the caller and the product being advertised; and

21 (f) A person making telephone solicitations shall
22 maintain a do-not-call list for the purpose of any future telephone
23 solicitations.

24 Sec. 111. Section 86-1213, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-1213.~~ An automatic dialing-announcing device
27 delivering a recorded message to a person shall release the
28 telephone line of the person called within five seconds of the time

1 notification is transmitted to the device that the person called
2 has hung up, or as soon thereafter as the serving telephone
3 company's central office equipment permits, to allow the telephone
4 line of the person called to be used to make or receive other
5 calls.

6 Sec. 112. Section 86-1214, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-1214.~~ (1) A person shall not connect or operate an
9 automatic dialing-announcing device for the purpose of making
10 telephone solicitations on any telephone line unless the person has
11 a current permit from the commission for the device. An applicant
12 for a permit shall make a written application to the commission.
13 The application shall be in a form prescribed by the commission and
14 shall require information about the type of device proposed for
15 connection and operation, the time of day telephone solicitations
16 will be made using the device, the anticipated number of calls
17 proposed to be placed during the specified calling period, the
18 average length of a completed call, or such alternative or
19 additional information as the commission may require. If the
20 applicant is an individual, the application shall include the
21 applicant's social security number. The applicant shall remit a
22 fee of five hundred dollars for each device with the application.

23 (2) Upon receiving an application for a permit, the
24 commission may grant, grant as modified, or deny the application.
25 The commission may modify or deny the permit if the commission
26 determines that (a) the applicant is unwilling or unable to meet
27 the requirements placed on such operations by law, rule, or
28 regulation or has failed to comply with the requirements in the

1 past, (b) the connection or operation of the device will result in
2 a significant decline in the quality of service or access to
3 service for other telephone users, (c) the applicant's equipment is
4 unable to meet the requirements of law, rule, or regulation, or (d)
5 the application does not contain adequate information.

6 (3) If a permit is granted, the permit shall remain in
7 force for two years from the date of issuance, and each application
8 for the renewal of a permit shall be treated as a new application.

9 (4) After receiving a permit but prior to connecting or
10 operating an automatic dialing-announcing device on any telephone
11 line, the permitholder shall notify the telephone company of the
12 telephone line on which the device is proposed to be connected or
13 operated. The telephone line shall be considered a business
14 telephone line. The telephone company shall release to the
15 commission the identity of any person connecting or operating an
16 automatic dialing-announcing device when requested to do so by the
17 commission pursuant to an investigation.

18 Sec. 113. Section 86-1215, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-1215.~~ A person shall not connect or operate an
21 automatic dialing-announcing device in such a manner as to allow it
22 to dial telephone numbers sequentially which means in any manner
23 other than a random manner. A detectable, predictable pattern
24 which can be used to accurately project the device's number dialing
25 shall satisfy a finding that sequential number dialing is taking
26 place in violation of this section.

27 Sec. 114. Section 86-1216, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-1216.~~ The commission shall adopt and promulgate rules
2 and regulations necessary to carry out ~~sections 86-1201 to 86-1222~~
3 the Automatic Dialing-Announcing Devices Act. The rules and
4 regulations shall include limitations on the length of calls and
5 messages and the days of the week, holidays, and time of day when
6 calls can be made.

7 Sec. 115. Section 86-1217, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-1217.~~ The commission may conduct investigations and
10 shall enforce ~~sections 86-1201 to 86-1222~~ the Automatic
11 Dialing-Announcing Devices Act. Upon written complaint and
12 supporting affidavit that an applicable law, rule, or regulation
13 has been or is being violated, the commission may enter a cease and
14 desist order on an ex parte basis against the party named in the
15 complaint. The order shall have duration of no more than twenty
16 days, and a hearing upon the complaint shall be held no later than
17 twenty days after the order is entered. In addition to any
18 criminal or other penalties, failure to comply with an applicable
19 law, rule, or regulation shall constitute grounds for revocation or
20 suspension of a permit.

21 Sec. 116. Section 86-1218, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-1218.~~ The commission, its agents or employees, or any
24 peace officer of this state at the direction of the commission may,
25 at any place in the state, seize without a warrant any automatic
26 dialing-announcing device the operation of which does not conform
27 in all respects to requirements imposed by subdivisions (1) and (2)
28 of section ~~86-1208~~ 106 of this act or any rules or regulations.

1 The seized device shall constitute contraband. The commission may,
2 upon satisfactory proof, direct return of a seized device when the
3 evidence establishes the owner did not willfully or intentionally
4 fail to comply with the applicable law, rules, or regulations. The
5 commission may, upon finding that the owner of a seized device has
6 willfully or intentionally failed to comply with the applicable
7 law, rules, or regulations, confiscate the device. Any device so
8 confiscated may be destroyed. Destruction of a device shall not
9 occur before all statutory appeal periods available to the owner
10 have been exhausted. The seizure and destruction of an automatic
11 dialing-announcing device shall not relieve any person from a fine,
12 imprisonment, or other penalty for violation of the applicable law,
13 rules, or regulations. The commission, its agents and employees,
14 or any peace officer of this state shall not be liable for
15 negligence for the seizure, confiscation, or destruction of any
16 contraband pursuant to this section.

17 Sec. 117. Section 86-1219, Revised Statutes Supplement,
18 2000, is amended to read:

19 ~~86-1219.~~ Any decision of the commission made pursuant to
20 ~~sections 86-1201 to 86-1222~~ the Automatic Dialing-Announcing
21 Devices Act or the rules and regulations may be appealed. The
22 appeal shall be in accordance with the Administrative Procedure
23 Act.

24 Sec. 118. Section 86-1221, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-1221.~~ Any person using an automatic
27 dialing-announcing device other than for telephone solicitations
28 shall register the device with the commission pursuant to the

1 application process, without a fee, and shall include with the
2 application a detailed explanation of the use planned and the
3 script to be used.

4 Sec. 119. Section 86-1222, Revised Statutes Supplement,
5 2000, is amended to read:

6 ~~86-1222.~~ The commission may administratively fine
7 pursuant to section 75-156 any person who violates ~~sections 86-1201~~
8 ~~to 86-1222~~ the Automatic Dialing-Announcing Devices Act or the
9 rules and regulations adopted and promulgated under ~~such sections~~
10 the act.

11 Sec. 120. Section 86-1101, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-1101.~~ Sections ~~86-1101 to 86-1111~~ 120 to 132 of this
14 act shall be known and may be cited as the Intrastate Pay-Per-Call
15 Regulation Act.

16 Sec. 121. Section 86-1102, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-1102.~~ For purposes of the Intrastate Pay-Per-Call
19 Regulation Act, the definitions found in sections 122 and 123 of
20 this act apply. +

21 ~~(1) Commission shall mean the Public Service Commission,~~
22 ~~and~~

23 ~~(2) Pay per call services shall mean telecommunications~~
24 ~~services which permit simultaneous calling by a large number of~~
25 ~~callers to a single telephone number and for which the calling~~
26 ~~party is assessed, by virtue of completing the call, a charge that~~
27 ~~is not dependent on the existence of a presubscription relationship~~
28 ~~and for which the caller pays a per-call or per-time interval~~

1 charge that is greater than or in addition to the charge for
2 transmission of the call.

3 Sec. 122. Commission means the Public Service
4 Commission.

5 Sec. 123. Pay-per-call services means telecommunications
6 services which permit simultaneous calling by a large number of
7 callers to a single telephone number and for which the calling
8 party is assessed, by virtue of completing the call, a charge that
9 is not dependent on the existence of a presubscription relationship
10 and for which the caller pays a per-call or per-time-interval
11 charge that is greater than or in addition to the charge for
12 transmission of the call.

13 Sec. 124. Section 86-1103, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~86-1103.~~ Common carriers may provide intrastate
16 transmission, under either contract or tariff, for pay-per-call
17 services only under the terms and conditions set forth by the
18 Intrastate Pay-Per-Call Regulation Act.

19 Sec. 125. Section 86-1104, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-1104.~~ In addition to the general requirements set
22 forth in subsection (1) of section ~~86-1110~~ 131 of this act, the
23 commission specifically shall adopt and promulgate rules and
24 regulations as necessary regarding preambles to intrastate
25 pay-per-call programs consistent with the rules and regulations of
26 the Federal Trade Commission pertaining to preamble requirements
27 for interstate pay-per-call programs.

28 Sec. 126. Section 86-1105, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-1105.~~ The common carrier providing intrastate
3 transmission for pay-per-call services shall provide to consumers
4 upon request the name, address, and customer service telephone
5 number of any information provider to whom the common carrier
6 provides such transmission service, either directly or through
7 another entity such as a service bureau. The common carrier shall
8 provide the information at no charge and within a reasonable time
9 upon verbal or written request.

10 Sec. 127. Section 86-1106, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-1106.~~ (1) Local exchange carriers shall offer to
13 their subscribers, when technically feasible, an option to block
14 intrastate nine hundred ~~services~~ service. Blocking shall be
15 offered at no charge on a one-time basis to all residential
16 telephone subscribers. For blocking requests not within the
17 one-time option and for commercial subscribers, the local exchange
18 carrier may charge a reasonable one-time fee for each blocking
19 request. Requests by subscribers to remove a previously blocked
20 intrastate nine hundred service shall be in writing to the local
21 exchange carrier. The commission may adopt and promulgate rules
22 and regulations to implement procedures for local exchange carriers
23 to place involuntary blocks on subscribers who fail to pay for
24 pay-per-call services.

25 (2) For purposes of this section, technically feasible
26 ~~shall mean~~ means when the existing switch will accommodate the
27 request for blocking.

28 Sec. 128. Section 86-1107, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-1107.~~ No common carrier shall disconnect or order the
3 disconnection of a subscriber's basic ~~communications~~
4 telecommunications service as a result of the subscriber's failure
5 to pay interstate or intrastate pay-per-call service charges.

6 Sec. 129. Section 86-1108, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-1108.~~ No common carrier shall provide transmission
9 services for pay-per-call services originated by an information
10 provider and charged to the consumer unless the called party has
11 taken affirmative action clearly indicating that it accepts the
12 charges for the collect pay-per-call service. This restriction
13 includes eight hundred number call-back ~~services~~ service.

14 Sec. 130. Section 86-1109, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-1109.~~ No common carrier shall provide transmission
17 services for any pay-per-call service which employs broadcast
18 advertising that generates the audible tones necessary to complete
19 a call to a pay-per-call service.

20 Sec. 131. Section 86-1110, Revised Statutes Supplement,
21 2000, is amended to read:

22 ~~86-1110.~~ (1) The commission shall adopt and promulgate
23 rules and regulations necessary to carry out the Intrastate
24 Pay-Per-Call Regulation Act.

25 (2) The commission may conduct investigations and shall
26 enforce the act.

27 (3) Upon written complaint and supporting affidavit that
28 an applicable rule or regulation or any provision of the act has

1 been or is being violated, the commission may enter a cease and
2 desist order on an ex parte basis against a party named in a
3 complaint alleging violation of the act. The order shall have
4 duration of no more than twenty days, and a hearing upon the
5 complaint shall be held no later than twenty days after the order
6 is entered by the commission.

7 (4) A decision of the commission made pursuant to the act
8 and rules and regulations of the commission may be appealed. The
9 appeal shall be in accordance with the Administrative Procedure
10 Act.

11 Sec. 132. Section 86-1111, Revised Statutes Supplement,
12 2000, is amended to read:

13 ~~86-1111.~~ After notice and a hearing, the commission may
14 administratively fine pursuant to section 75-156 violators of the
15 Intrastate Pay-Per-Call Regulation Act or the applicable rules and
16 regulations adopted and promulgated under the act.

17 Sec. 133. Section 86-701, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-701.~~ As used in sections 86-701 to 86-707.15 For
20 purposes of sections 133 to 177 of this act, unless the context
21 otherwise requires, the definitions found in sections 134 to 151 of
22 this act apply. +

23 ~~(1) Aggrieved person shall mean a person who was a party~~
24 ~~to any intercepted wire, electronic, or oral communication or a~~
25 ~~person against whom the interception was directed,~~

26 ~~(2) Aural transfer shall mean a transfer containing the~~
27 ~~human voice at any point between and including the point of origin~~
28 ~~and the point of reception,~~

1 ~~(3) Contents, when used with respect to any wire,~~
2 ~~electronic, or oral communication, shall include any information~~
3 ~~concerning the substance, purport, or meaning of that~~
4 ~~communication,~~

5 ~~(4) Electronic, mechanical, or other device shall mean~~
6 ~~any device or apparatus which can be used to intercept a wire,~~
7 ~~electronic, or oral communication other than (a) any telephone or~~
8 ~~telegraph instrument, equipment, or facility, or any component~~
9 ~~thereof, (i) furnished to the subscriber or user by a provider in~~
10 ~~the ordinary course of its business and being used by the~~
11 ~~subscriber or user in the ordinary course of its business or~~
12 ~~furnished by such subscriber or user for connection to the~~
13 ~~facilities of such service and used by the subscriber or user in~~
14 ~~the ordinary course of its business or (ii) being used by a~~
15 ~~provider in the ordinary course of its business or by an~~
16 ~~investigative or law enforcement officer in the ordinary course of~~
17 ~~his or her duties or (b) a hearing aid or similar device being used~~
18 ~~to correct subnormal hearing to not better than normal,~~

19 ~~(5) Electronic communication shall mean any transfer of~~
20 ~~signs, signals, writing, images, sounds, data, or intelligence of~~
21 ~~any nature transmitted in whole or in part by a wire, radio,~~
22 ~~electromagnetic, photoelectronic, or photooptical system but shall~~
23 ~~not include:~~

24 ~~(a) The radio portion of a cordless telephone~~
25 ~~communication that is transmitted between the cordless telephone~~
26 ~~handset and the base unit,~~

27 ~~(b) Any wire or oral communication,~~

28 ~~(c) Any communication made through a tone-only mobile~~

1 paging device, or

2 (d) Any communication from a mobile tracking device as
3 defined in section ~~86-707.08,~~

4 (6) Electronic communication service shall mean any
5 service which provides to users thereof the ability to send or
6 receive wire or electronic communications,

7 (7) Electronic communications system shall mean any wire,
8 radio, electromagnetic, photooptical, or photoelectronic facilities
9 for the transmission of electronic communications and any computer
10 facilities or related electronic equipment for the electronic
11 storage of such communications,

12 (8) Electronic storage shall mean:

13 (a) Any temporary, intermediate storage of a wire or
14 electronic communication incidental to the electronic transmission
15 thereof, and

16 (b) Any storage of such communication by an electronic
17 communication service for purposes of backup protection of such
18 communication,

19 (9) Intercept shall mean the aural or other acquisition
20 of the contents of any wire, electronic, or oral communication
21 through the use of any electronic, mechanical, or other device,

22 (10) Investigative or law enforcement officer shall mean
23 a law enforcement officer as defined in section ~~81-1401~~ and shall
24 include the Attorney General and his or her deputies or assistants,
25 a county attorney and his or her deputies, and agents of the United
26 States Federal Bureau of Investigation, Drug Enforcement
27 Administration, Marshals Service, Secret Service, Bureau of
28 Alcohol, Tobacco, and Firearms, Treasury Department, Customs

1 ~~Service, Justice Department, and Internal Revenue Service,~~

2 ~~(11) Mobile phone communication shall mean a radio~~
3 ~~communication that is transmitted on frequencies allocated under~~
4 ~~the rules of the Federal Communications Commission,~~

5 ~~(12) Oral communication shall mean any oral communication~~
6 ~~uttered by a person exhibiting an expectation that such~~
7 ~~communication is not subject to interception under circumstances~~
8 ~~justifying such expectation but shall not include any electronic~~
9 ~~communication,~~

10 ~~(13) Pen register shall mean a device which records or~~
11 ~~decodes electronic or other impulses which identify the numbers~~
12 ~~dialed or otherwise transmitted on the telephone line to which such~~
13 ~~device is attached but shall not include any device used by a~~
14 ~~provider or customer of an electronic communication service for~~
15 ~~billing or recording as an incident to billing for communications~~
16 ~~services provided by such provider or any device used by a provider~~
17 ~~or customer of an electronic communication service for cost~~
18 ~~accounting or other like purposes in the ordinary course of its~~
19 ~~business,~~

20 ~~(14) Provider shall mean any person who provides an~~
21 ~~electronic communication service and who has authorized access to~~
22 ~~or possession or control of the facilities or equipment necessary~~
23 ~~to implement the order to intercept a wire or electronic~~
24 ~~communication or the order to install a pen register or a~~
25 ~~trap-and-trace device,~~

26 ~~(15) Readily accessible to the general public shall mean,~~
27 ~~with respect to a radio communication, that such communication is~~
28 ~~not,~~

- 1 ~~(a) Scrambled or encrypted,~~
- 2 ~~(b) Transmitted using modulation techniques the essential~~
3 ~~parameters of which have been withheld from the public with the~~
4 ~~intention of preserving the privacy of such communication,~~
- 5 ~~(c) Carried on a subcarrier or other signal subsidiary to~~
6 ~~a radio transmission,~~
- 7 ~~(d) Transmitted over an electronic communications system~~
8 ~~by a provider unless the communication is a tone-only paging system~~
9 ~~communication, or~~
- 10 ~~(e) Transmitted on frequencies allocated under part 25,~~
11 ~~subpart D, E, or F of part 74, or part 94 of the rules of the~~
12 ~~Federal Communications Commission unless, in the case of a~~
13 ~~communication transmitted on a frequency allocated under part 74~~
14 ~~that is not exclusively allocated to broadcast auxiliary services,~~
15 ~~the communication is a two-way voice communication by radio,~~
- 16 ~~(16) Trap-and-trace device shall mean a device which~~
17 ~~captures the incoming electronic or other impulses which identify~~
18 ~~the originating number of an instrument or device from which a wire~~
19 ~~or electronic communication was transmitted,~~
- 20 ~~(17) User shall mean any person or entity who:~~
- 21 ~~(a) Uses an electronic communication service, and~~
22 ~~(b) Is duly authorized by the provider of such service to~~
23 ~~engage in such use, and~~
- 24 ~~(18) Wire communication shall mean any aural transfer~~
25 ~~made in whole or in part through the use of facilities for the~~
26 ~~transmission of communications by the aid of wire, cable, or other~~
27 ~~like connection, including the use of such connection in a~~
28 ~~switching station, between the point of origin and the point of~~

1 reception furnished or operated by any person engaged in providing
2 or operating such facilities for the transmission of
3 ~~communications.~~ Wire communication shall include any electronic
4 storage of such communication but shall not include the radio
5 portion of a cordless telephone communication that is transmitted
6 between the cordless telephone handset and the base unit.

7 Sec. 134. Aggrieved person means a person who was a
8 party to any intercepted wire, electronic, or oral communication or
9 a person against whom the interception was directed.

10 Sec. 135. Aural transfer means a transfer containing the
11 human voice at any point between and including the point of origin
12 and the point of reception.

13 Sec. 136. Contents, when used with respect to any wire,
14 electronic, or oral communication, includes any information
15 concerning the substance, purport, or meaning of such
16 communication.

17 Sec. 137. Electronic, mechanical, or other device means
18 any device or apparatus which can be used to intercept a wire,
19 electronic, or oral communication other than:

20 (1) Any telephone or telegraph instrument, equipment, or
21 facility, or any component thereof, (a) furnished to the subscriber
22 or user by a provider in the ordinary course of its business and
23 being used by the subscriber or user in the ordinary course of its
24 business or furnished by such subscriber or user for connection to
25 the facilities of such service and used by the subscriber or user
26 in the ordinary course of its business or (b) being used by a
27 provider in the ordinary course of its business or by an
28 investigative or law enforcement officer in the ordinary course of

1 his or her duties; or

2 (2) A hearing aid or similar device being used to correct
3 subnormal hearing to not better than normal.

4 Sec. 138. Electronic communication means any transfer of
5 signs, signals, writing, images, sounds, data, or intelligence of
6 any nature transmitted in whole or in part by a wire, radio,
7 electromagnetic, photoelectronic, or photooptical system but does
8 not include:

9 (1) The radio portion of a cordless telephone
10 communication that is transmitted between the cordless telephone
11 handset and the base unit;

12 (2) Any wire or oral communication;

13 (3) Any communication made through a tone-only mobile
14 paging device; or

15 (4) Any communication from a mobile tracking device as
16 defined in section 165 of this act.

17 Sec. 139. Electronic communication service means any
18 service which provides to users thereof the ability to send or
19 receive wire or electronic communication.

20 Sec. 140. Electronic communication system means any
21 wire, radio, electromagnetic, photooptical, or photoelectronic
22 facilities for the transmission of electronic communications and
23 any computer facilities or related electronic equipment for the
24 electronic storage of such communication.

25 Sec. 141. Electronic storage means:

26 (1) Any temporary, intermediate storage of a wire or
27 electronic communication incidental to the electronic transmission
28 thereof; and

1 (2) Any storage of such communication by an electronic
2 communication service for purposes of backup protection of such
3 communication.

4 Sec. 142. Intercept means the aural or other acquisition
5 of the contents of any wire, electronic, or oral communication
6 through the use of any electronic, mechanical, or other device.

7 Sec. 143. Investigative or law enforcement officer means
8 a law enforcement officer as defined in section 81-1401 and
9 includes the Attorney General and his or her deputies or
10 assistants, a county attorney and his or her deputies, and agents
11 of the United States Federal Bureau of Investigation, Drug
12 Enforcement Administration, Marshals Service, Secret Service,
13 Bureau of Alcohol, Tobacco, and Firearms, Treasury Department,
14 Customs Service, Justice Department, and Internal Revenue Service.

15 Sec. 144. Mobile telephone communication means a radio
16 communication that is transmitted on frequencies allocated under
17 the rules of the Federal Communications Commission.

18 Sec. 145. Oral communication means any oral
19 communication uttered by a person exhibiting an expectation that
20 such communication is not subject to interception under
21 circumstances justifying such expectation but does not include any
22 electronic communication.

23 Sec. 146. Pen register means a device which records or
24 decodes electronic or other impulses which identify the numbers
25 dialed or otherwise transmitted on the telephone line to which such
26 device is attached but does not include (1) any device used by a
27 provider or customer of an electronic communication service for
28 billing or recording as an incident to billing for communication

1 service provided by such provider or (2) any device used by a
2 provider or customer of an electronic communication service for
3 cost accounting or other like purposes in the ordinary course of
4 its business.

5 Sec. 147. Provider means any person who provides an
6 electronic communication service and who has authorized access to
7 or possession or control of the facilities or equipment necessary
8 to implement (1) the order to intercept a wire or electronic
9 communication or (2) the order to install a pen register or a
10 trap-and-trace device.

11 Sec. 148. Readily accessible to the general public
12 means, with respect to a radio communication, that such
13 communication is not:

14 (1) Scrambled or encrypted;

15 (2) Transmitted using modulation techniques the essential
16 parameters of which have been withheld from the public with the
17 intention of preserving the privacy of such communication;

18 (3) Carried on a subcarrier or other signal subsidiary to
19 a radio transmission;

20 (4) Transmitted over an electronic communication system
21 by a provider unless the communication is a tone-only paging system
22 communication; or

23 (5) Transmitted on frequencies allocated under part 25,
24 subpart D, E, or F of part 74, or part 94 of the rules of the
25 Federal Communications Commission, as such rules existed on the
26 operative date of this section, unless, in the case of a
27 communication transmitted on a frequency allocated under part 74
28 that is not exclusively allocated to broadcast auxiliary services,

1 the communication is a two-way voice communication by radio.

2 Sec. 149. Trap-and-trace device means a device which
3 captures the incoming electronic or other impulses which identify
4 the originating number of an instrument or device from which a wire
5 or electronic communication was transmitted.

6 Sec. 150. User means any person or entity who:

7 (1) Uses an electronic communication service; and

8 (2) Is duly authorized by the provider of such service to
9 engage in such use.

10 Sec. 151. Wire communication means any aural transfer
11 made in whole or in part through the use of facilities for the
12 transmission of communications by the aid of wire, cable, or other
13 like connection, including the use of such connection in a
14 switching station, between the point of origin and the point of
15 reception furnished or operated by any person engaged in providing
16 or operating such facilities for the transmission of
17 communications. Wire communication includes any electronic storage
18 of such communication but does not include the radio portion of a
19 cordless telephone communication that is transmitted between the
20 cordless telephone handset and the base unit.

21 Sec. 152. Section 86-702, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-702.~~ (1) Except as otherwise specifically provided in
24 sections ~~86-701 to 86-707~~ 152 to 157 of this act, it ~~shall be~~ is
25 unlawful to:

26 (a) Intentionally intercept, endeavor to intercept, or
27 procure any other person to intercept or endeavor to intercept any
28 wire, electronic, or oral communication;

1 (b) ~~intentionally~~ Intentionally use, endeavor to use, or
2 procure any other person to use or endeavor to use any electronic,
3 mechanical, or other device to intercept any oral communication
4 when (i) such device is affixed to, or otherwise transmits a signal
5 through, a wire, cable, or other like connection used in wire
6 communication or (ii) such device transmits communications by radio
7 or interferes with the transmission of such communication;

8 (c) ~~intentionally~~ Intentionally disclose or endeavor to
9 disclose to any other person the contents of any wire, electronic,
10 or oral communication, knowing or having reason to know that the
11 information was obtained through the interception of a wire,
12 electronic, or oral communication in violation of this subsection;

13 (d) ~~intentionally~~ Intentionally use or endeavor to use
14 the contents of any wire, electronic, or oral communication,
15 knowing or having reason to know that the information was obtained
16 through the interception of a wire, electronic, or oral
17 communication in violation of this subsection; or

18 (e) ~~having~~ Having knowledge that an investigative or law
19 enforcement officer has been authorized or has applied for
20 authorization under sections ~~86-701 to 86-712~~ 152 to 157 of this
21 act to intercept a wire, oral, or electronic communication, give
22 notice or attempt to give notice of the possible interception to
23 any person in order to obstruct, impede, or prevent such
24 interception.

25 Except as provided in subdivisions (4)(a) and (5)(b) of
26 this section, any person who violates this subsection ~~shall be~~ is
27 guilty of a Class IV felony.

28 (2)(a) It ~~shall not be~~ is not unlawful under sections

1 ~~86-701~~ ~~to~~ ~~86-707~~ 152 to 157 of this act for an employer on his,
2 her, or its business premises, for an operator of a switchboard, or
3 for an officer, employee, or agent of any provider, the facilities
4 of which are used in the transmission of a wire communication, to
5 intercept, disclose, or use that communication in the normal course
6 of his, her, or its employment while engaged in any activity which
7 is a necessary incident to the rendition of his, her, or its
8 service or to the protection of the rights or property of the
9 carrier or provider of such communication services. Such employers
10 and providers shall not utilize service observing or random
11 monitoring except for mechanical, service quality, or performance
12 control checks as long as reasonable notice of the policy of random
13 monitoring is provided to their employees.

14 (b) It ~~shall not be~~ is not unlawful under sections ~~86-701~~
15 ~~to~~ ~~86-707~~ 152 to 157 of this act for a person acting under color of
16 law to intercept a wire, electronic, or oral communication when
17 such person is a party to the communication or one of the parties
18 to the communication has given prior consent to such interception.

19 (c) It ~~shall not be~~ is not unlawful under sections ~~86-701~~
20 ~~to~~ ~~86-707~~ 152 to 157 of this act for a person not acting under
21 color of law to intercept a wire, electronic, or oral communication
22 when such person is a party to the communication or when one of the
23 parties to the communication has given prior consent to such
24 interception unless such communication is intercepted for the
25 purpose of committing any criminal or tortious act in violation of
26 the Constitution or laws of the United States or of any state.

27 (d) It ~~shall not be~~ is not unlawful under sections ~~86-701~~
28 ~~to~~ ~~86-707~~ 152 to 157 of this act:

1 (i) To intercept or access an electronic communication
2 made through an electronic communications system that is configured
3 so that such electronic communication is readily accessible to the
4 general public;

5 (ii) To intercept any radio communication which is
6 transmitted:

7 (A) By any station for the use of the general public or
8 that relates to ships, aircraft, vehicles, or persons in distress;

9 (B) By any governmental, law enforcement, emergency
10 management, private land mobile, or public safety communications
11 system, including police and fire, readily accessible to the
12 general public;

13 (C) By a station operating on an authorized frequency
14 within the bands allocated to the amateur, citizens band, or
15 general mobile radio services; or

16 (D) By any marine or aeronautical communications system;

17 (iii) To engage in any conduct which:

18 (A) Is prohibited by section 633 of the federal
19 Communications Act of 1934, 47 U.S.C. 151 et seq., as such section
20 existed on the operative date of this section; or

21 (B) Is excepted from the application of section 705(a) of
22 the federal Communications Act of 1934, 47 U.S.C. 151 et seq., by
23 section 705(b) of such act, as such sections existed on the
24 operative date of this section;

25 (iv) To intercept any wire or electronic communication
26 the transmission of which is causing harmful interference to any
27 lawfully operating station or consumer electronic equipment to the
28 extent necessary to identify the source of such interference; or

1 (v) For other users of the same frequency to intercept
2 any radio communication made through a system that utilizes
3 frequencies monitored by individuals engaged in the provision or
4 the use of such system if such communication is not scrambled or
5 encrypted.

6 (e) It ~~shall not be~~ is not unlawful under sections ~~86-701~~
7 ~~to 86-707 and 86-707.03 to 86-707.06~~ 152 to 157 and 160 to 163 of
8 this act:

9 (i) To use a pen register or a trap-and-trace device; or

10 (ii) For a provider of an electronic communication
11 service to record the fact that a wire or electronic communication
12 was initiated or completed in order to protect such provider,
13 another provider furnishing service toward the completion of the
14 wire or electronic communication, or a user of that service from
15 fraudulent, unlawful, or abusive use of such service.

16 (3) (a) Except as provided in subsection (1) of this
17 section and subdivision (b) of this subsection, a person or entity
18 providing an electronic communication service to the public shall
19 not intentionally divulge the contents of any communication, other
20 than one to such person or entity or an agent thereof, while in
21 transmission on such service to any person or entity other than an
22 addressee or intended recipient of such communication or an agent
23 of such addressee or intended recipient.

24 (b) A person or entity providing an electronic
25 communication service to the public may divulge the contents of any
26 such communication:

27 (i) As otherwise authorized in subdivision (a) of this
28 subsection or section ~~86-704~~ 154 of this act;

1 (ii) With the lawful consent of the originator or any
2 addressee or intended recipient of such communication;

3 (iii) To a person employed or authorized, or whose
4 facilities are used, to forward such communication to its
5 destination; or

6 (iv) Which was inadvertently obtained by the provider and
7 which appears to pertain to the commission of a crime if such
8 divulgence is made to a law enforcement officer.

9 (4) (a) If the offense is a first offense under subsection
10 (1) of this section and is not for a tortious or illegal purpose or
11 for purposes of direct or indirect commercial advantage or private
12 commercial gain and the wire or electronic communication with
13 respect to the offense under subsection (1) of this section is a
14 radio communication that is not scrambled or encrypted, then:

15 (i) If the communication is not the radio portion of a
16 cellular telephone communication, a public land mobile radio
17 service communication, or a paging service communication and the
18 conduct is not that described in subsection (5) of this section,
19 ~~the offender shall be guilty of~~ offense is a Class I misdemeanor;
20 or

21 (ii) If the communication is the radio portion of a
22 cellular telephone communication, a public land mobile radio
23 service communication, or a paging service communication, the
24 ~~offender shall be guilty of~~ offense is a Class III misdemeanor.

25 (b) Conduct, otherwise an offense under this subsection
26 that consists of or relates to the interception of a satellite
27 transmission that is not encrypted or scrambled and that is
28 transmitted: (i) To a broadcasting station for purposes of

1 retransmission to the general public; or (ii) as an audio
2 subcarrier intended for redistribution to facilities open to the
3 public but not including data transmissions or telephone calls,
4 ~~shall not be~~ is not an offense under this subsection unless the
5 conduct is for the purposes of direct or indirect commercial
6 advantage or private financial gain.

7 (5) (a) If the communication is: (i) A private satellite
8 video communication that is not scrambled or encrypted and the
9 conduct in violation of sections ~~86-701 to 86-707~~ 152 to 157 of
10 this act is the private viewing of that communication and is not
11 for a tortious or illegal purpose or for purposes of direct or
12 indirect commercial advantage or private commercial gain; or (ii) a
13 radio communication that is transmitted on frequencies allocated
14 under subpart D of part 74 of the rules of the Federal
15 Communications Commission, as such rules existed on the operative
16 date of this section, and that is not scrambled or encrypted and
17 the conduct in violation of sections ~~86-701 to 86-707~~ 152 to 157 of
18 this act is not for a tortious or illegal purpose or for purposes
19 of direct or indirect commercial advantage or private commercial
20 gain, then the person who engages in such conduct shall be subject
21 to suit by the state in a court of competent jurisdiction.

22 (b) In an action under this subsection:

23 (i) If the violation is a first offense by the person
24 under subsection (1) of this section and such person has not been
25 found liable in a civil action under section ~~86-707.02~~ 159 of this
26 act, the state shall be entitled to appropriate injunctive relief;
27 and

28 (ii) If the violation is a second or subsequent offense

1 under subsection (1) of this section or such person has been found
2 liable in any prior civil action under section ~~86-707.02~~ 159 of
3 this act, the person shall be subject to a mandatory
4 five-hundred-dollar civil fine.

5 (c) The court may use any means within its authority to
6 enforce an injunction issued under this subsection and shall impose
7 a civil fine of not less than five hundred dollars for each
8 violation of such an injunction.

9 Sec. 153. Section 86-703, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~86-703.~~ The Attorney General or any county attorney may
12 make application to any district court of this state for an order
13 authorizing or approving the interception of wire, electronic, or
14 oral communications, and such court may grant, subject to sections
15 ~~86-701 to 86-707~~ 152 to 157 of this act, an order authorizing or
16 approving the interception of wire, electronic, or oral
17 communications by law enforcement officers having responsibility
18 for the investigation of the offense as to which application is
19 made, when such interception may provide or has provided evidence
20 of the commission of the offense of murder, kidnapping, robbery,
21 bribery, extortion, dealing in narcotic or other dangerous drugs,
22 or any conspiracy to commit any such offenses.

23 At the same time a county attorney first makes
24 application to the district court for an initial order authorizing
25 or approving the interception of wire, electronic, or oral
26 communications, the county attorney shall submit the application to
27 the Attorney General or his or her designated deputy or assistant.
28 Within twenty-four hours of receipt by the office of the Attorney

1 General of the application from the county attorney, the Attorney
2 General or his or her designated deputy or assistant, as the case
3 may be, shall state to the district court where the order is sought
4 his or her recommendation as to whether the order should be
5 granted. The court shall not issue the order until it has received
6 the recommendation or until seventy-two hours after receipt of the
7 application from the county attorney, whichever is sooner, unless
8 the court finds exigent circumstances existing which necessitate
9 the immediate issuance of the order. The court may issue the order
10 and disregard the recommendation of the Attorney General or his or
11 her designated deputy or assistant.

12 Sec. 154. Section 86-704, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-704.~~ (1) Any investigative or law enforcement officer
15 who, by any means authorized by sections ~~86-701 to 86-707~~ 152 to
16 157 of this act, has obtained knowledge of the contents of any
17 wire, electronic, or oral communication or evidence derived
18 therefrom may disclose such contents to another investigative or
19 law enforcement officer to the extent that such disclosure is
20 appropriate to the proper performance of the official duties of the
21 officer making or receiving the disclosure.

22 (2) Any investigative or law enforcement officer who, by
23 any means authorized by sections ~~86-701 to 86-707~~ 152 to 157 of
24 this act, has obtained knowledge of the contents of any wire,
25 electronic, or oral communication or evidence derived therefrom may
26 use such contents to the extent such use is appropriate to the
27 proper performance of his or her official duties.

28 (3) Any person who has received, by any means authorized

1 by sections ~~86-701 to 86-707~~ 152 to 157 of this act, any
2 information concerning a wire, electronic, or oral communication or
3 evidence derived therefrom intercepted in accordance with sections
4 ~~86-701 to 86-707~~ 152 to 157 of this act may disclose the contents
5 of that communication or such derivative evidence while giving
6 testimony under oath or affirmation in any criminal proceeding held
7 under the authority of the United States, of this state, or of any
8 other state.

9 (4) No otherwise privileged wire, electronic, or oral
10 communication intercepted in accordance with, or in violation of,
11 sections ~~86-701 to 86-707~~ 152 to 157 of this act shall lose its
12 privileged character.

13 (5) When an investigative or law enforcement officer,
14 while engaged in intercepting wire, electronic, or oral
15 communications in the manner authorized herein, intercepts wire,
16 electronic, or oral communications relating to offenses other than
17 those specified in the order of authorization or approval, the
18 contents thereof and evidence derived therefrom may be disclosed or
19 used as provided in subsections (1) and (2) of this section. Such
20 contents and any evidence derived therefrom may be used under
21 subsection (3) of this section when authorized or approved by a
22 judge of a district court when such judge finds on subsequent
23 application that the contents were otherwise intercepted in
24 accordance with sections ~~86-701 to 86-707~~ 152 to 157 of this act.
25 Such application shall be made as soon as practicable.

26 Sec. 155. Section 86-705, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-705.~~ (1) Each application for an order authorizing or

1 approving the interception of a wire, electronic, or oral
2 communication shall be made in writing upon oath or affirmation to
3 a judge of a district court and shall state the applicant's
4 authority to make such application. Each application shall include
5 the following information:

6 (a) The identity of the applicant;

7 (b) A full and complete statement of the facts and
8 circumstances relied upon by the applicant to justify his or her
9 belief that an order should be issued, including details as to the
10 particular offense that has been, is being, or is about to be
11 committed, a particular description of the nature and location of
12 the facilities from which or the place where the communication is
13 to be intercepted except as otherwise provided in subsection (13)
14 of this section, a particular description of the type of
15 communications sought to be intercepted, and the identity of the
16 person, if known, committing the offense and whose communications
17 are to be intercepted;

18 (c) A full and complete statement as to whether or not
19 other investigative procedures have been tried and failed or why
20 they reasonably appear to be unlikely to succeed if tried or to be
21 too dangerous;

22 (d) A statement of the period of time for which the
23 interception is required to be maintained. If the nature of the
24 investigation is such that the authorization for interception
25 should not automatically terminate when the described type of
26 communication has been first obtained, a particular description of
27 facts establishing probable cause to believe that additional
28 communications of the same type will occur thereafter;

1 (e) A full and complete statement of the facts concerning
2 all previous applications known to the individual authorizing and
3 making the application made to any judge for authorization to
4 intercept or for approval of interceptions of wire, electronic, or
5 oral communications involving any of the same persons, facilities,
6 or places specified in the application and the action taken by the
7 judge on each such application; and

8 (f) When the application is for the extension of an
9 order, a statement setting forth the results thus far obtained from
10 the interception or a reasonable explanation of the failure to
11 obtain such results.

12 (2) The judge may require the applicant to furnish
13 additional testimony or documentary evidence in support of the
14 application.

15 (3) Upon such application the judge may enter an ex parte
16 order, as requested or as modified, authorizing or approving
17 interception of wire, electronic, or oral communications or mobile
18 ~~phone~~ telephone communications within the territorial jurisdiction
19 of the court if the judge determines on the basis of the facts
20 submitted by the applicant that: (a) There is probable cause for
21 belief that an individual is committing, has committed, or is about
22 to commit a particular offense enumerated in section ~~86-703~~ 153 of
23 this act; (b) there is probable cause for belief that particular
24 communications concerning that offense will be obtained through
25 such interception; (c) normal investigative procedures have been
26 tried and have failed or reasonably appear to be unlikely to
27 succeed if tried or to be too dangerous; and (d) except as
28 otherwise provided in subsection (13) of this section, there is

1 probable cause for belief that the facilities from which or the
2 place where the wire, electronic, or oral communications are to be
3 intercepted are being used or are about to be used in connection
4 with the commission of such offense or are leased to, listed in
5 the name of, or commonly used by such person.

6 (4) Each order authorizing or approving the interception
7 of any wire, electronic, or oral communication shall specify: (a)
8 The identity of the person, if known, whose communications are to
9 be intercepted; (b) except as otherwise provided in subsection (13)
10 of this section, the nature and location of the communications
11 facilities as to which or the place where authority to intercept is
12 granted; (c) a particular description of the type of communication
13 sought to be intercepted and a statement of the particular offense
14 to which it relates; (d) the identity of the agency authorized to
15 intercept the communications and of the person authorizing the
16 application; and (e) the period of time during which such
17 interception is authorized, including a statement as to whether or
18 not the interception shall automatically terminate when the
19 described communication has been first obtained.

20 (5) Each order authorizing the interception of a wire,
21 electronic, or oral communication shall, upon request of the
22 applicant, direct that a provider, landlord, custodian, or other
23 person furnish to the applicant all information, facilities, and
24 technical assistance necessary to accomplish the interception
25 inconspicuously and with a minimum of interference with the
26 services that such provider, landlord, custodian, or person is
27 giving to the person whose communications are to be intercepted.
28 Any provider, landlord, custodian, or other person furnishing such

1 facilities or technical assistance shall be compensated therefor by
2 the applicant for expenses incurred in providing such facilities or
3 assistance at the prevailing rates. A provider that has received
4 an order as provided in this subsection may, under seal, move the
5 court to modify or quash the order on the ground that its
6 assistance with respect to the interception cannot be performed in
7 a timely or reasonable fashion. The court, upon notice to the
8 Attorney General or county attorney as the case may be, shall
9 decide such a motion expeditiously.

10 (6) No order entered under this section may authorize or
11 approve the interception of any wire, electronic, or oral
12 communication for any period longer than is necessary to achieve
13 the objective of the authorization nor in any event longer than
14 thirty days. Extensions of an order may be granted but only upon
15 application for an extension made in accordance with subsection (1)
16 of this section and the court making the findings required by
17 subsection (3) of this section. The period of extension shall be
18 no longer than the authorizing judge deems necessary to achieve the
19 purposes for which it was granted and in no event for longer than
20 thirty days. Every order and extension thereof shall contain a
21 provision that the authorization to intercept shall be executed as
22 soon as practicable, shall be conducted in such a way as to avoid
23 and prevent interception of confidential communications to or from
24 persons of the classes described in sections 20-146 and 27-503 to
25 27-506 unless there exists probable cause to believe such persons
26 have committed, are committing, or are conspiring to commit
27 offenses specified in section ~~26-703~~ 153 of this act, shall be
28 conducted in such a way as to minimize the interception of

1 communications not otherwise subject to interception under sections
2 ~~86-701 to 86-707~~ 152 to 157 of this act, and shall terminate upon
3 attainment of the authorized objective or in any event in thirty
4 days. Upon a showing of good cause as set forth in the
5 application, in the event the intercepted communication is in a
6 foreign language and an expert in that foreign language is not
7 reasonably available during the interception period, minimization
8 may be accomplished as soon as practicable after such interception.

9 (7) (a) Whenever an order authorizing interception is
10 entered pursuant to sections ~~86-701 to 86-707~~ 152 to 157 of this
11 act, the order shall, at a minimum, require reports to be filed
12 with the judge who issued the order no earlier than the twelfth day
13 and no later than the sixteenth day after the order is issued and
14 twelve to sixteen days thereafter showing what progress has been
15 made toward achievement of the authorized objective and the need
16 for continued interception. Additional reports shall be filed at
17 such other intervals as the judge may require. Time computed under
18 this subdivision shall commence on the first calendar day after the
19 order is issued.

20 (b) If the required reports are not filed, the judge
21 shall exclude from evidence any communication intercepted after
22 that date otherwise authorized by the order unless the person
23 required to file the reports establishes that the failure was for
24 good cause.

25 (8) (a) The contents of any wire, electronic, or oral
26 communication intercepted by any means authorized by sections
27 ~~86-701 to 86-707~~ 152 to 157 of this act shall, if possible, be
28 recorded on tape or wire or other comparable device. The recording

1 of the contents of any wire, electronic, or oral communication
2 under this subsection shall be done in such way as will protect the
3 recording from editing or other alterations. Immediately upon the
4 expiration of the period of the order or extensions thereof, such
5 recordings shall be made available to the judge issuing such order
6 and sealed under his or her directions. Custody of the recordings
7 shall be wherever the judge orders. They shall not be destroyed
8 except upon an order of the issuing or denying judge and in any
9 event shall be kept for ten years. Duplicate recordings may be
10 made for use or disclosure pursuant to subsections (1) and (2) of
11 section ~~86-704~~ 154 of this act for investigations. The presence of
12 the seal provided for by this subsection or a satisfactory
13 explanation for the absence thereof shall be a prerequisite for the
14 use or disclosure of the contents of any wire, electronic, or oral
15 communication or evidence derived therefrom under subsection (3) of
16 section ~~86-704~~ 154 of this act.

17 (b) Applications made and orders granted under sections
18 ~~86-701 to 86-707~~ 152 to 157 of this act shall be sealed by the
19 judge. Custody of the applications and orders shall be wherever
20 the judge directs. Such applications and orders shall be disclosed
21 only upon a showing of good cause before a judge of a district
22 court, shall not be destroyed except on order of the issuing or
23 denying judge, and in any event shall be kept for ten years.

24 (c) Any violation of this subsection may be punished as
25 contempt of the issuing or denying judge.

26 (9)(a) Within a reasonable time, but not longer than
27 ninety days after the termination of the period of an order or
28 extensions thereof, the issuing judge shall cause the applicant to

1 serve on the persons named in the order or the application and such
2 other parties to intercepted communications which the judge may
3 determine to be in the interest of justice an inventory which shall
4 include: (i) The entry of the order of application; (ii) the date
5 of such entry and the period of authorized or approved interception
6 or the denial of the application; and (iii) whether, during such
7 period, wire, electronic, or oral communications were or were not
8 intercepted.

9 (b) The judge, upon the filing of a motion by a person
10 whose communications were intercepted, may make available to such
11 person or his or her counsel for inspection such portions of the
12 intercepted communications, applications, and orders as the judge
13 determines to be in the interest of justice. On application to a
14 judge of a district court, the serving of the inventory required by
15 this subsection shall be postponed for ninety days. Thereafter, on
16 an ex parte showing of good cause to a judge of a district court,
17 the serving of the inventory required by this subsection may be
18 further postponed.

19 (c) If the inventory is not served as required by this
20 subsection, any communication intercepted under an order or
21 extension thereof shall be excluded as evidence before all courts
22 of this state unless the failure to serve such inventory was for
23 good cause, the failure to serve the inventory did not
24 substantially affect the rights of the defendant in the matter, or
25 the serving of the inventory was postponed as allowed and ordered
26 pursuant to subdivision (b) of this subsection.

27 (d) Nothing in this subsection shall be construed to
28 limit the judge's power of contempt.

1 (10) The contents of any intercepted wire, electronic, or
2 oral communication or evidence derived therefrom shall not be
3 received in evidence or otherwise disclosed in any trial, hearing,
4 or other proceeding in a federal or state court unless each party,
5 not less than ten days before the trial, hearing, or proceeding,
6 has been furnished with a copy of the court order and accompanying
7 application under which the interception was authorized or
8 approved. This ten-day period may be waived by the judge if he or
9 she finds that it was not possible to furnish the party with such
10 information ten days before the trial, hearing, or proceeding and
11 that the party will not be prejudiced by the delay in receiving
12 such information.

13 (11) Any aggrieved person in any trial, hearing, or
14 proceeding in or before any court, department, officer, agency,
15 regulatory body, or other authority of this state may move to
16 suppress the contents of any intercepted wire, electronic, or oral
17 communication or evidence derived therefrom on the grounds that the
18 communication was unlawfully intercepted, the order of
19 authorization or approval under which it was intercepted is
20 insufficient on its face, or the interception was not made in
21 conformity with the order of authorization or approval. Such
22 motion shall be made before the trial, hearing, or proceeding
23 unless there was no opportunity to make such motion or the person
24 was not aware of the grounds of the motion. If the motion is
25 granted, the contents of the intercepted wire, electronic, or oral
26 communication or evidence derived therefrom shall be treated as
27 having been obtained in violation of sections ~~86-701 to 86-707~~ 152
28 to 157 of this act. The judge, upon the filing of such motion by

1 the aggrieved person, may in his or her discretion make available
2 to the aggrieved person or his or her counsel for inspection such
3 portions of the intercepted communication or evidence derived
4 therefrom as the judge determines to be in the interests of
5 justice.

6 (12) In addition to any other right to appeal, the
7 Attorney General or any county attorney shall have the right to
8 appeal from an order granting a motion to suppress made under
9 subsection (11) of this section or the denial of an application for
10 an order of approval if the Attorney General or the county attorney
11 certifies to the judge granting such motion or denying such
12 application that the appeal is not taken for purposes of delay.
13 Such appeal shall be taken within thirty days after the date the
14 order was entered and shall be diligently prosecuted.

15 (13) The requirements of subdivisions (1)(b), (3)(d), and
16 (4)(b) of this section relating to the specification of the
17 facilities from which or the place where the communication is to be
18 intercepted shall not apply if:

19 (a) In the case of an application with respect to the
20 interception of an oral communication:

21 (i) The application is approved by both the Attorney
22 General and the county attorney where the application is sought or
23 a deputy attorney general or designated deputy county attorney if
24 the Attorney General or county attorney is outside of his or her
25 respective jurisdiction;

26 (ii) The application contains a full and complete
27 statement as to why such specification is not practical and
28 identifies the person believed to be committing the offense and

1 whose communications are to be intercepted; and

2 (iii) The judge finds that such specification is not
3 practical; and

4 (b) In the case of an application with respect to a wire
5 or electronic communication:

6 (i) The application is approved by both the Attorney
7 General and the county attorney where the application is sought or
8 a deputy attorney general or designated deputy county attorney if
9 the Attorney General or county attorney is outside of his or her
10 respective jurisdiction;

11 (ii) The application identifies the person believed to be
12 committing the offense and whose communications are to be
13 intercepted and the applicant makes a showing of a purpose, on the
14 part of that person, to thwart interception by changing facilities;
15 and

16 (iii) The judge finds that such purpose has been
17 adequately shown.

18 (14) An interception of a communication under an order
19 with respect to which the requirements of subdivisions (1)(b),
20 (3)(d), and (4)(b) of this section do not apply by reason of
21 subsection (13) of this section shall not begin until the facility
22 from which or the place where the communication is to be
23 intercepted is ascertained by the person implementing the
24 interception order.

25 (15) As used in subdivisions (7)(b) and (9)(c) of this
26 section, good cause shall include a showing that the failure to
27 file the report or serve the inventory was not intentional and that
28 a substantial reason or special circumstance, including an act of

1 God, reasonable unavailability of the applicant or necessary law
2 enforcement officer due to death, medical condition,
3 incapacitation, inaccessibility, or location, or other substantial
4 reason or special circumstance as the court in its discretion
5 determines, excused the failure to file the report or serve the
6 inventory.

7 Sec. 156. Section 86-706, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-706.~~ In January of each year the Attorney General and
10 each county attorney shall report to the Administrative Office of
11 the United States Courts:

12 (1) The following information with respect to each
13 application for an order or extension made during the preceding
14 calendar year: (a) The fact that an order or extension was applied
15 for; (b) the kind of order or extension applied for; (c) the fact
16 that the order or extension was granted as applied for, was
17 modified, or was denied; (d) the period of interceptions authorized
18 by the order, and the number and duration of any extensions of the
19 order; (e) the offense specified in the order or application, or
20 extension of an order; (f) the identity of the applying
21 investigative or law enforcement officer and agency making the
22 application and the person authorizing the application; and (g) the
23 nature of the facilities from which or the place where
24 communications were to be intercepted;

25 (2) A general description of the interceptions made under
26 such order or extension, including (i) the approximate nature and
27 frequency of incriminating communications intercepted, (ii) the
28 approximate nature and frequency of other communications

1 intercepted, (iii) the approximate number of persons whose
2 communications were intercepted, and (iv) the approximate nature,
3 amount, and cost of the manpower and other resources used in the
4 interceptions;

5 (3) The number of arrests resulting from interceptions
6 made under such order or extension, and the offenses for which
7 arrests were made;

8 (4) The number of trials resulting from such
9 interceptions;

10 (5) The number of motions to suppress made with respect
11 to such interceptions, and the number granted or denied;

12 (6) The number of convictions resulting from such
13 interceptions and the offenses for which the convictions were
14 obtained and a general assessment of the importance of the
15 interceptions; and

16 (7) The information required by subdivisions (2) ~~to~~
17 through (6) of this section with respect to orders or extensions
18 obtained in ~~a~~ the preceding calendar year.

19 Sec. 157. Section 86-707, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-707.~~ It ~~shall be~~ is unlawful for any person to (1)
22 intentionally and without lawful authority cut, break, tap, or make
23 connection with any telegraph or telephone line, wire, cable, or
24 instrument or electronic, mechanical, or other device or read or
25 copy in any unauthorized manner any message, communication, or
26 report passing over it, in this state, (2) intentionally and
27 without lawful authority prevent, obstruct, or delay, by any means
28 or contrivance whatsoever, the sending, transmission, conveyance,

1 or delivery in this state of any authorized message, communication,
2 or report by or through any telegraph or telephone line, wire, or
3 cable under the control of any telegraph or telephone company doing
4 business in this state, (3) aid, agree with, employ, or conspire
5 with any person or persons to unlawfully do or perform, or cause to
6 be done, any of the acts described in subdivisions (1) and (2) of
7 this section, or (4) occupy, use a line, or knowingly permit
8 another to occupy, use a line, room, table, establishment, or
9 apparatus to unlawfully do or cause to be done any of the acts
10 described in this section. Any person who violates this section
11 ~~shall be~~ is guilty of a Class IV felony.

12 Sec. 158. Section 86-707.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-707.01.~~ (1) Except as otherwise specifically provided
15 in sections ~~86-701 to 86-707~~ 152 to 157 of this act and this
16 section, any person who intentionally:

17 (a) Sends in intrastate commerce any electronic,
18 mechanical, or other device, knowing or having reason to know that
19 the design of such device renders it primarily useful for the
20 purpose of the unlawful surreptitious interception of wire,
21 electronic, or oral communications, ~~shall be~~ is guilty of a Class
22 IV felony; or

23 (b) Manufactures, assembles, possesses, or sells any
24 electronic, mechanical, or other device, knowing or having reason
25 to know that the design of such device renders it primarily useful
26 for the purpose of the unlawful surreptitious interception of wire,
27 electronic, or oral communications and that such device or any
28 component thereof has been or will be transported in intrastate

1 commerce, ~~shall be~~ is guilty of a Class IV felony.

2 (2) This section shall not be construed to prohibit the
3 exchange of electronic, mechanical, or other devices between law
4 enforcement officers or federally funded law enforcement
5 associations.

6 (3) It ~~shall be~~ is unlawful for a provider or an officer,
7 agent, or employee of or a person under contract with a provider,
8 in the normal course of the business of providing electronic
9 communication service, to send or carry in intrastate commerce,
10 manufacture, assemble, possess, or sell any electronic, mechanical,
11 or other device, knowing or having reason to know that the design
12 of such device renders it primarily useful for the purpose of the
13 unlawful surreptitious interception of wire, oral, or electronic
14 communications. Any person who violates this subsection ~~shall be~~
15 is guilty of a Class IV felony.

16 (4) It ~~shall be~~ is lawful for an officer, agent, or
17 employee of or a person under contract with the United States, a
18 state, or a political subdivision thereof, in the normal course of
19 the activities of the United States, a state, or a political
20 subdivision thereof, to send or carry in intrastate commerce,
21 manufacture, assemble, possess, or sell any electronic, mechanical,
22 or other device, knowing or having reason to know that the design
23 of such device renders it primarily useful for the purpose of the
24 unlawful surreptitious interception of wire, electronic, or oral
25 communications.

26 Sec. 159. Section 86-707.02, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-707.02.~~ (1) Any person whose wire, electronic, or

1 oral communication is intercepted, disclosed, or intentionally used
2 in violation of sections ~~86-701 to 86-707 and 86-707.03 to~~
3 ~~86-707.08~~ 152 to 157 and 160 to 165 of this act may in a civil
4 action recover from the person or entity which engaged in that
5 violation such relief as may be appropriate.

6 (2) In an action under this section, appropriate relief
7 ~~shall include~~ includes:

8 (a) Such preliminary and other equitable or declaratory
9 relief as may be appropriate;

10 (b) Damages under subsection (3) of this section; and

11 (c) Reasonable attorney's fees and other litigation costs
12 reasonably incurred.

13 (3) (a) In an action under this section, if the conduct in
14 violation of sections ~~86-701 to 86-707 and 86-707.03 to 86-707.08~~
15 152 to 157 and 160 to 165 of this act is the private viewing of a
16 private satellite video communication that is not scrambled or
17 encrypted or if the communication is a radio communication that is
18 transmitted on frequencies allocated under subpart D of part 74 of
19 the rules of the Federal Communications Commission, as such rules
20 existed on the operative date of this section, that is not
21 scrambled or encrypted and the conduct is not for a tortious or
22 illegal purpose or for purposes of direct or indirect commercial
23 advantage or private commercial gain, then the court shall assess
24 damages as follows:

25 (i) If the person who engaged in such conduct has not
26 previously been enjoined under subsection (5) of section ~~86-702~~ 152
27 of this act and has not been found liable in a prior civil action
28 under this section, the court shall assess the greater of the sum

1 of actual damages suffered by the plaintiff or statutory damages of
2 not less than fifty dollars and not more than five hundred dollars;
3 or

4 (ii) If on one prior occasion the person who engaged in
5 such conduct has been enjoined under subsection (5) of section
6 ~~86-702~~ 152 of this act or has been found liable in a civil action
7 under this section, the court shall assess the greater of the sum
8 of actual damages suffered by the plaintiff or statutory damages of
9 not less than one hundred dollars and not more than one thousand
10 dollars.

11 (b) In any other action under this section, the court may
12 assess as damages whichever is the greater of:

13 (i) The sum of the actual damages suffered by the
14 plaintiff and any profits made by the violator as a result of the
15 violation; or

16 (ii) Statutory damages of whichever is the greater of one
17 hundred dollars a day for each day of violation or ten thousand
18 dollars.

19 (4) A good faith reliance on (a) a court warrant or
20 order, a grand jury subpoena, a legislative authorization, or a
21 statutory authorization, (b) a request of an investigative or law
22 enforcement officer under section ~~86-705~~ 155 of this act, or (c) a
23 good faith determination that section ~~86-702~~ 152 of this act
24 permitted the conduct complained of shall be a complete defense
25 against any civil or criminal action brought under sections ~~86-701~~
26 ~~to 86-707 and 86-707.03 to 86-707.08~~ 152 to 157 and 160 to 165 of
27 this act or any other law.

28 (5) A civil action under this section may not be

1 commenced later than two years after the date upon which the
2 claimant first discovered or had a reasonable opportunity to
3 discover the violation.

4 Sec. 160. Section 86-707.03, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~86-707.03.~~ (1) Except as provided in this section, no
7 person may install or use a pen register or a trap-and-trace device
8 without first obtaining a court order under section ~~86-707.05~~ 162
9 of this act. Nothing in sections ~~86-701 to 86-707.14~~ 152 to 172 of
10 this act shall be construed to prohibit an emergency operator from
11 conducting a trap or trace of a ~~phone~~ telephone number during an
12 emergency.

13 (2) The prohibition of subsection (1) of this section
14 shall not apply with respect to the use of a pen register or a
15 trap-and-trace device by a provider:

16 (a) Relating to the operation, maintenance, and testing
17 of an electronic communication service, to the protection of the
18 rights or property of such provider or to the protection of users
19 of that service from abuse of service or unlawful use of service;

20 (b) To record the fact that a wire or electronic
21 communication was initiated or completed in order to protect such
22 provider, another provider furnishing service toward the completion
23 of the wire or electronic communication, or a user of such service
24 from fraudulent, unlawful, or abusive use of service; or

25 (c) When the consent of the user of such service has been
26 obtained.

27 (3) ~~Whoever~~ Any person who knowingly violates subsection
28 (1) of this section ~~shall be~~ is guilty of a Class I misdemeanor.

1 Sec. 161. Section 86-707.04, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~86-707.04.~~ (1) An investigative or law enforcement
4 officer may make application for an order or an extension of an
5 order under section ~~86-707.05~~ 162 of this act authorizing or
6 approving the installation and use of a pen register or a
7 trap-and-trace device under sections ~~86-707.03 to 86-707.06~~ 160 to
8 163 of this act to a county or district court. Such application
9 shall be in writing and shall be under oath or affirmation.

10 (2) An application under subsection (1) of this section
11 shall include:

12 (a) The identity of the investigative or law enforcement
13 officer making the application and the identity of the law
14 enforcement agency conducting the investigation; and

15 (b) A certification by the applicant that the information
16 likely to be obtained is relevant to an ongoing criminal
17 investigation being conducted by that agency.

18 Sec. 162. Section 86-707.05, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-707.05.~~ (1) Upon an application made under section
21 ~~86-707.04~~ 161 of this act, the court shall enter an ex parte order
22 authorizing the installation and use of a pen register or a
23 trap-and-trace device within the jurisdiction of the court if the
24 court finds that the investigative or law enforcement officer has
25 certified to the court that the information likely to be obtained
26 by such installation and use is relevant to an ongoing criminal
27 investigation.

28 (2) An order issued under this section:

1 (a) Shall specify:

2 (i) The identity, if known, of the person to whom is
3 leased or in whose name is listed the telephone line to which the
4 pen register or trap-and-trace device is to be attached;

5 (ii) The identity, if known, of the person who is the
6 subject of the criminal investigation;

7 (iii) The number and, if known, physical location of the
8 telephone line to which the pen register or trap-and-trace device
9 is to be attached and, in the case of a trap-and-trace device, the
10 geographic limits of the order; and

11 (iv) A statement of the offense to which the information
12 likely to be obtained by the pen register or trap-and-trace device
13 relates; and

14 (b) Shall direct, upon the request of the applicant, the
15 furnishing of information, facilities, and technical assistance
16 necessary to accomplish the installation of the pen register or
17 trap-and-trace device.

18 (3) (a) An order issued under this section shall authorize
19 the installation and use of a pen register or a trap-and-trace
20 device for a period not to exceed sixty days.

21 (b) Extensions of such an order may be granted but only
22 upon an application for an order under section ~~86-707.04~~ 161 of
23 this act and upon the judicial finding required by subsection (1)
24 of this section. The period of extension shall be for a period not
25 to exceed sixty days.

26 (4) An order issued under this section shall direct that:

27 (a) The order be sealed until otherwise ordered by the
28 court; and

1 (b) The person owning or leasing the line to which the
2 pen register or a trap-and-trace device is attached or the person
3 who has been ordered by the court to provide assistance to the
4 applicant not disclose the existence of the pen register or
5 trap-and-trace device or the existence of the investigation to the
6 listed subscriber or to any other person unless or until otherwise
7 ordered by the court.

8 Sec. 163. Section 86-707.06, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-707.06.~~ (1) Upon the request of an investigative or
11 law enforcement officer authorized to install and use a pen
12 register under sections ~~86-707.03 to 86-707.06~~ 160 to 163 of this
13 act, a provider, landlord, custodian, or other person shall furnish
14 such investigative or law enforcement officer forthwith all
15 information, facilities, and technical assistance necessary to
16 accomplish the installation of the pen register unobtrusively and
17 with a minimum of interference with the services that the person so
18 ordered by the court accords the party with respect to whom the
19 installation and use is to take place if such assistance is
20 directed by a court order as provided in section ~~86-707.05~~ 162 of
21 this act.

22 (2) Upon the request of an investigative or law
23 enforcement officer authorized to receive the results of a
24 trap-and-trace device under sections ~~86-707.03 to 86-707.06~~ 160 to
25 163 of this act, a provider, landlord, custodian, or other person
26 shall install such device forthwith on the appropriate line and
27 shall furnish such investigative or law enforcement officer all
28 additional information, facilities, and technical assistance,

1 including installation and operation of the device, unobtrusively
2 and with a minimum of interference with the services that the
3 person so ordered by the court accords the party with respect to
4 whom the installation and use is to take place if such installation
5 and assistance is directed by a court order as provided in section
6 ~~86-707.05~~ 162 of this act. Unless otherwise ordered by the court,
7 the results of the trap-and-trace device shall be furnished to the
8 investigative or law enforcement officer, designated in the court
9 order, at reasonable intervals during regular business hours for
10 the duration of the order.

11 (3) A provider, landlord, custodian, or other person who
12 furnishes facilities or technical assistance pursuant to this
13 section shall be reasonably compensated for such reasonable
14 expenses incurred in providing such facilities and assistance.

15 (4) No cause of action shall lie in any court against any
16 provider, its officers, employees, or agents, or other specified
17 persons for providing information, facilities, or assistance in
18 accordance with the terms of a court order under sections ~~86-707.03~~
19 ~~to 86-707.06~~ 160 to 163 of this act.

20 (5) A good faith reliance on a court order, a legislative
21 authorization, or a statutory authorization shall be a complete
22 defense against any civil or criminal action brought under sections
23 ~~86-707.03 to 86-707.06~~ 160 to 163 of this act or any other law.

24 Sec. 164. Section 86-707.07, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-707.07.~~ (1) ~~Whoever~~ Any person who, without the
27 authority of the satellite operator, intentionally or maliciously
28 interferes with the authorized operation of a communications or

1 weather satellite or obstructs or hinders any satellite
2 transmission ~~shall be~~ is guilty of a Class IV felony.

3 (2) This section shall not prohibit any lawfully
4 authorized investigative, protective, or intelligence activity of a
5 law enforcement agency of the United States or this state.

6 Sec. 165. Section 86-707.08, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-707.08.~~ (1) A district court may issue a warrant or
9 other order for the installation of a mobile tracking device, and
10 such order may authorize the use of that device within the
11 jurisdiction of the court and outside that jurisdiction if the
12 device is installed in that jurisdiction.

13 (2) ~~As used in~~ For purposes of this section, mobile
14 tracking device ~~shall mean~~ means an electronic or mechanical device
15 which permits the tracking of the movement of a person or object.

16 Sec. 166. Section 86-707.09, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-707.09.~~ (1) Except as provided in subsection (3) of
19 this section, ~~whoever~~ any person who (a) intentionally accesses
20 without authorization a facility through which an electronic
21 communication service is provided or (b) intentionally exceeds an
22 authorization to access the facility and thereby obtains, alters,
23 or prevents authorized access to a wire or electronic communication
24 while it is in electronic storage in such service ~~shall be punished~~
25 ~~as is subject to the penalties~~ provided in subsection (2) of this
26 section.

27 (2) The ~~punishment~~ penalty for an offense under
28 subsection (1) of this section ~~shall be~~ is (a) if the offense is

1 committed for purposes of commercial advantage, malicious
2 destruction or damage, or private commercial gain (i) a Class I
3 misdemeanor for the first offense and (ii) a fine or imprisonment
4 for not more than two years, or both, for any subsequent offense
5 and (b) a Class IV felony for any other offense.

6 (3) Subsection (1) of this section shall not apply with
7 respect to conduct authorized (a) by the person or entity providing
8 an electronic communication service, (b) by a user of that service
9 with respect to a communication of or intended for that user, or
10 (c) by section ~~86-705~~ ~~or 86-707.12~~ 155 or 169 of this act.

11 Sec. 167. Section 86-707.10, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-707.10.~~ (1) Except as provided in subsection (2) of
14 this section, (a) a person or entity providing an electronic
15 communication service to the public shall not knowingly divulge to
16 any person or entity the contents of a communication while in
17 electronic storage by the service and (b) a person or entity
18 providing remote computing service to the public shall not
19 knowingly divulge to any person or entity the contents of any
20 communication which is carried or maintained on the service (i) on
21 behalf of, and received by means of electronic transmission from or
22 created by means of computer processing of communications received
23 by means of electronic transmission from, a subscriber to or
24 customer of such service and (ii) solely for the purpose of
25 providing storage or computer processing services to such
26 subscriber or customer, if the provider is not authorized to access
27 the contents of any such communications for purposes of providing
28 any services other than storage of computer processing.

1 (2) A person or entity may divulge the contents of a
2 communication:

3 (a) To an addressee or intended recipient of such
4 communication or an agent of such addressee or intended recipient;

5 (b) As otherwise authorized in section ~~86-702, 86-704, or~~
6 ~~86-707.11~~ 152, 154, or 168 of this act;

7 (c) With the lawful consent of the originator or an
8 addressee or intended recipient of such communication or the
9 subscriber in the case of remote computing service;

10 (d) To a person employed or authorized or whose
11 facilities are used to forward such communication to its
12 destination;

13 (e) As may be necessarily incident to the rendition of
14 the service or to the protection of the rights or property of the
15 provider of the service; or

16 (f) To a law enforcement officer if such contents (i)
17 were inadvertently obtained by the provider and (ii) appear to
18 pertain to the commission of a crime.

19 Sec. 168. Section 86-707.11, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-707.11.~~ (1) A governmental entity may require the
22 disclosure by a provider of electronic communication service of the
23 contents of an electronic communication, that is in electronic
24 storage in an electronic communications system for one hundred
25 eighty days or less, only pursuant to a warrant. A governmental
26 entity may require the disclosure by a provider of the contents of
27 an electronic communication that has been in electronic storage in
28 an electronic communications system for more than one hundred

1 eighty days by the means available under subsection (2) of this
2 section.

3 (2) (a) A governmental entity may require a provider of
4 remote computing service to disclose the contents of any electronic
5 communication to which this subsection is made applicable by
6 subdivision (2) (b) of this section (i) without required notice to
7 the subscriber or customer if the governmental entity obtains a
8 warrant or (ii) with prior notice from the governmental entity to
9 the subscriber or customer if the governmental entity (A) uses an
10 administrative subpoena or (B) obtains a court order for such
11 disclosure under subsection (4) of this section, except that
12 delayed notice may be given pursuant to section ~~86-707.13~~ 170 of
13 this act.

14 (b) Subdivision (2) (a) of this section shall apply to any
15 electronic communication that is held or maintained on that service
16 (i) on behalf of, and received by means of electronic transmission
17 from or created by means of computer processing of communications
18 received by means of electronic transmission from, a subscriber to
19 or customer of such remote computing service and (ii) solely for
20 the purpose of providing storage or computer processing services to
21 such subscriber or customer, if the provider is not authorized to
22 access the contents of any such communications for purposes of
23 providing any services other than storage or computer processing.

24 (3) (a) (i) Except as provided in subdivision (3) (a) (ii) of
25 this section, a provider of electronic communication service or
26 remote computing service may disclose a record or other information
27 pertaining to a subscriber to or customer of such service not
28 including the contents of communications covered by subsection (1)

1 or (2) of this section to any person other than a governmental
2 entity.

3 (ii) A provider of electronic communication service or
4 remote computing service shall disclose a record or other
5 information pertaining to a subscriber to or customer of such
6 service not including the contents of communications covered by
7 subsection (1) or (2) of this section to a governmental entity only
8 when the governmental entity (A) uses an administrative subpoena,
9 (B) obtains a warrant, (C) obtains a court order for such
10 disclosure under subsection (4) of this section, or (D) has the
11 consent of the subscriber or customer to such disclosure.

12 (b) A governmental entity receiving records or
13 information under this subsection is not required to provide notice
14 to a subscriber or customer.

15 (4) A court order for disclosure under subsection (2) or
16 (3) of this section shall issue only if the governmental entity
17 shows that there is reason to believe the contents of a wire or
18 electronic communication or the records or other information sought
19 are relevant to a legitimate law enforcement inquiry. A court
20 issuing an order pursuant to this section, on a motion made
21 promptly by the provider, may quash or modify such order if the
22 information or records requested are unusually voluminous in nature
23 or compliance with such order would otherwise cause an undue burden
24 on such provider.

25 (5) No cause of action shall lie in any court against any
26 provider, its officers, employees, or agents, or other specified
27 persons for providing information, facilities, or assistance in
28 accordance with the terms of a court order, warrant, subpoena, or

1 certification under sections ~~86-707.09 to 86-707.15~~ 166 to 172 of
2 this act.

3 Sec. 169. Section 86-707.12, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~86-707.12.~~ (1) (a) A governmental entity acting under
6 subsection (2) of section ~~86-707.11~~ 168 of this act may include in
7 its subpoena or court order a requirement that the provider to whom
8 the request is directed create a backup copy of the contents of the
9 electronic communications sought in order to preserve those
10 communications. Without notifying the subscriber or customer of
11 such subpoena or court order, such provider shall create such
12 backup copy as soon as practicable consistent with its regular
13 business practices and shall confirm to the governmental entity
14 that such backup copy has been made. Such backup copy shall be
15 created within two business days after receipt by the provider of
16 the subpoena or court order.

17 (b) Notice to the subscriber or customer shall be made by
18 the governmental entity within three days after receipt of such
19 confirmation unless such notice is delayed pursuant to section
20 ~~86-707.13~~ 170 of this act.

21 (c) The provider shall not destroy such backup copy until
22 the later of (i) the delivery of the information or (ii) the
23 resolution of any proceedings including appeals of any proceeding
24 concerning the subpoena or court order.

25 (d) The provider shall release such backup copy to the
26 requesting governmental entity no sooner than fourteen days after
27 the governmental entity's notice to the subscriber or customer if
28 such provider (i) has not received notice from the subscriber or

1 customer that the subscriber or customer has challenged the
2 governmental entity's request and (ii) has not initiated
3 proceedings to challenge the request of the governmental entity.

4 (e) A governmental entity may seek to require the
5 creation of a backup copy under subdivision (a) of this subsection
6 if in its sole discretion such entity determines that there is
7 reason to believe that notification under this section and section
8 ~~86-707.11~~ 168 of this act of the existence of the subpoena or court
9 order may result in destruction of or tampering with evidence.
10 This determination shall not be subject to challenge by the
11 subscriber, customer, or provider.

12 (2)(a) Within fourteen days after notice by the
13 governmental entity to the subscriber or customer under subdivision
14 (1)(b) of this section, such subscriber or customer may file a
15 motion to quash such subpoena or vacate such court order, with
16 copies served upon the governmental entity and with written notice
17 of such challenge to the provider. A motion to vacate a court
18 order shall be filed in the court which issued such order. A
19 motion to quash a subpoena shall be filed in the appropriate court.
20 Such motion or application shall contain an affidavit or sworn
21 statement (i) stating that the applicant is a subscriber to or
22 customer of the service from which the contents of electronic
23 communications maintained for him or her have been sought and (ii)
24 stating the applicant's reasons for believing that the records
25 sought are not relevant to a legitimate law enforcement inquiry or
26 that there has not been substantial compliance with sections
27 ~~86-707.09~~ ~~to~~ ~~86-707.15~~ 166 to 172 of this act in some other
28 respect.

1 (b) Service shall be made under this section upon a
2 governmental entity by delivering or mailing by registered or
3 certified mail a copy of the papers to the person, office, or
4 department specified in the notice which the subscriber or customer
5 has received pursuant to sections ~~86-707.11 to 86-707.13~~ 168 to 170
6 of this act. For purposes of this section, ~~the term~~ delivery ~~shall~~
7 ~~have the meaning given that term~~ has the same meaning as in the
8 ~~Nebraska Rules of Civil Procedure~~ code of civil procedure.

9 (c) If the court finds that the subscriber or customer
10 has complied with subdivisions (a) and (b) of this subsection, the
11 court shall order the governmental entity to file a sworn response,
12 which may be filed in camera if the governmental entity includes in
13 its response the reasons which make in camera review appropriate.
14 If the court is unable to determine the motion or application on
15 the basis of the parties' initial allegations and response, the
16 court may conduct such additional proceedings as it deems
17 appropriate. All such proceedings shall be completed and the
18 motion or application decided as soon as practicable after the
19 filing of the governmental entity's response.

20 (d) If the court finds that the applicant is not the
21 subscriber or customer for whom the communications sought by the
22 governmental entity are maintained or that there is reason to
23 believe that the law enforcement inquiry is legitimate and that the
24 communications sought are relevant to that inquiry, it shall deny
25 the motion or application and order such process enforced. If the
26 court finds that the applicant is the subscriber or customer for
27 whom the communications sought by the governmental entity are
28 maintained and that there is not reason to believe that the

1 communications sought are relevant to a legitimate law enforcement
2 inquiry or that there has not been substantial compliance with
3 sections ~~86-707.09 to 86-707.15~~ 166 to 172 of this act, it shall
4 order the process quashed.

5 (e) A court order denying a motion or application under
6 this section shall not be deemed a final order and no interlocutory
7 appeal may be taken therefrom by the subscriber or customer.

8 Sec. 170. Section 86-707.13, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-707.13.~~ (1)(a) A governmental entity acting under
11 subsection (2) of section ~~86-707.11~~ 168 of this act shall (i) when
12 a court order is sought, include in the application a request,
13 which the court shall grant, for an order delaying the notification
14 required under such subsection for a period not to exceed ninety
15 days if the court determines that there is reason to believe that
16 notification of the existence of the court order may have an
17 adverse result or (ii) when an administrative subpoena is obtained,
18 delay the notification required under such subsection for a period
19 not to exceed ninety days upon the execution of a written
20 certification of a supervisory official that there is reason to
21 believe that notification of the existence of the subpoena may have
22 an adverse result.

23 (b) For purposes of this section:

24 (i) Adverse result ~~shall mean~~ means:

25 (A) Endangering the life or physical safety of an
26 individual;

27 (B) Flight from prosecution;

28 (C) Destruction of or tampering with evidence;

1 (D) Intimidation of potential witnesses; or

2 (E) Otherwise seriously jeopardizing an investigation or
3 unduly delaying a trial; and

4 (ii) Supervisory official ~~shall mean~~ means the
5 investigative agent in charge, the assistant investigative agent in
6 charge, an equivalent of an investigating agency's headquarters or
7 regional office, the chief prosecuting attorney, the first
8 assistant prosecuting attorney, or an equivalent of a prosecuting
9 attorney's headquarters or regional office.

10 (c) The governmental entity shall maintain a true copy of
11 certification under subdivision (a) (ii) of this subsection.

12 (d) Extensions of the delay of notification provided in
13 sections ~~86-707.11 and 86-707.12~~ 168 and 169 of this act of up to
14 ninety days each may be granted by the court upon application, or
15 by certification by a governmental entity, but only in accordance
16 with subsection (2) of this section.

17 (e) Upon expiration of the period of delay of
18 notification under subdivision (a) or (d) of this subsection, the
19 governmental entity shall serve upon or deliver by registered or
20 first-class mail to the customer or subscriber a copy of the
21 process or request together with notice that:

22 (i) States with reasonable specificity the nature of the
23 law enforcement inquiry; and

24 (ii) Informs such customer or subscriber:

25 (A) That information maintained for such customer or
26 subscriber by the provider named in such process or request was
27 supplied to or requested by that governmental entity and the date
28 on which the supplying or request took place;

1 (B) That notification of such customer or subscriber was
2 delayed;

3 (C) What governmental entity or court made the
4 certification or determination pursuant to which that delay was
5 made; and

6 (D) Which provision of sections ~~86-707.09 to 86-707.14~~
7 166 to 171 of this act allowed such delay.

8 (2) A governmental entity acting under section ~~86-707.11~~
9 168 of this act, when it is not required to notify the subscriber
10 or customer under subdivision (2)(a) of section ~~86-707.11~~ 168 of
11 this act or to the extent that it may delay such notice pursuant to
12 subsection (1) of this section, may apply to a court for an order
13 commanding a provider of electronic communication service or remote
14 computing service to whom a warrant, subpoena, or court order is
15 directed, for such period as the court deems appropriate, not to
16 notify any other person of the existence of the warrant, subpoena,
17 or court order. The court shall enter such an order if it
18 determines that there is reason to believe that notification of the
19 existence of the warrant, subpoena, or court order will result in
20 an adverse result.

21 Sec. 171. Section 86-707.14, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-707.14.~~ (1) Except as otherwise provided in
24 subsection (3) of this section, a governmental entity obtaining the
25 contents of communications, records, or other information under
26 sections ~~86-707.09 to 86-707.15,~~ 166 to 172 of this act shall pay
27 to the person or entity assembling or providing such information a
28 fee for reimbursement for such costs as are reasonably necessary

1 and which have been directly incurred in searching for, assembling,
2 reproducing, or otherwise providing such information. Such
3 reimbursable costs ~~shall~~ include any costs due to necessary
4 disruption of normal operations of any electronic communication
5 service or remote computing service in which such information may
6 be stored.

7 (2) The amount of the fee provided by subsection (1) of
8 this section shall be as mutually agreed by the governmental entity
9 and the person or entity providing the information or, in the
10 absence of agreement, shall be as determined by the court which
11 issued the order for production of such information or the court
12 before which a criminal prosecution relating to such information
13 would be brought if no court order was issued for production of the
14 information.

15 (3) The requirement of subsection (1) of this section
16 shall not apply with respect to records or other information
17 maintained by a provider that relate to telephone toll records and
18 telephone listings obtained under section ~~86-707.11~~ 168 of this
19 act. The court may, however, order a payment as described in
20 subsection (1) of this section if the court determines the
21 information required is unusually voluminous in nature or otherwise
22 caused an undue burden on the provider.

23 Sec. 172. Section 86-707.15, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~86-707.15.~~ (1) Except as provided in subsection (5) of
26 section ~~86-707.11~~ 168 of this act, any provider, subscriber, or
27 customer aggrieved by any violation of sections ~~86-707.09 to~~
28 ~~86-707.15~~ 166 to 172 of this act in which the conduct constituting

1 the violation is engaged in with a knowing or intentional state of
2 mind may, in a civil action, recover from the person or entity
3 which engaged in that violation such relief as may be appropriate.

4 (2) In a civil action under this section, appropriate
5 relief ~~shall include~~ includes:

6 (a) Such preliminary and other equitable or declaratory
7 relief as may be appropriate;

8 (b) Damages under subsection (3) of this section; and

9 (c) Reasonable attorney's fees and other litigation costs
10 reasonably incurred.

11 (3) The court may assess as damages in a civil action
12 under this section the sum of the actual damages suffered by the
13 plaintiff and any profits made by the violator as a result of the
14 violation, but in no case shall a person entitled to recover
15 receive less than the sum of one thousand dollars.

16 (4) A good faith reliance on (a) a court warrant or
17 order, a grand jury subpoena, a legislative authorization, or a
18 statutory authorization, (b) a request of an investigative or law
19 enforcement officer under section ~~86-705~~ 155 of this act, or (c) a
20 good faith determination that section ~~86-702~~ 152 of this act
21 permitted the conduct complained of shall be a complete defense to
22 any civil or criminal action brought under sections ~~86-707.09 to~~
23 ~~86-707.15~~ 166 to 172 of this act.

24 (5) A civil action under this section may not be
25 commenced later than two years after the date upon which the
26 claimant first discovered or had a reasonable opportunity to
27 discover the violation.

28 Sec. 173. Section 86-708, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~§6-708.~~ (1) If the Attorney General or any county
3 attorney ~~shall~~ reasonably ~~determine~~ determines that the testimony
4 of any witness or the production of books, papers, or other
5 evidence by any witness is necessary to the public interest in any
6 proceeding before the grand jury of the district court of the State
7 of Nebraska involving any violation or conspiracy to violate the
8 provisions of subsection (1) of section ~~§6-702~~ 152 of this act or
9 involving the offenses enumerated in section ~~§6-703~~ 153 of this
10 act, the Attorney General or county attorney, upon the approval of
11 the Attorney General, shall make application to the court that the
12 witness be instructed to testify or produce evidence subject to the
13 provisions of this section. Upon an order of the court, such
14 witness shall not be excused from testifying or from producing
15 books, papers, or other evidence on the grounds that the testimony
16 or evidence required by him or her may incriminate him or her or
17 subject him or her to a penalty or forfeiture. Nothing in this
18 section shall be construed to suspend or otherwise interfere with
19 the operation of the provisions of the Free Flow of Information Act
20 or sections 27-503 to 27-506 and 27-605.

21 (2) Except as otherwise provided in this section, no such
22 witness shall be prosecuted or subjected to any penalty or
23 forfeiture for or on account of any transaction, matter, or thing
24 concerning which the witness is compelled, after having claimed the
25 privilege against self-incrimination, to testify or produce
26 evidence, nor shall testimony so compelled be used as evidence in
27 any criminal proceeding against the witness in any court. No
28 witness shall be exempt under this section from prosecution for

1 perjury or contempt committed while giving testimony or producing
2 evidence under compulsion pursuant to this section.

3 Sec. 174. Section 86-709, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~86-709.~~ The Attorney General or any county attorney may
6 administer oaths and affirmations, subpoena witnesses, compel their
7 attendance, take evidence, and require the production of records
8 including books, papers, documents, and tangible things which
9 constitute or contain evidence relevant or material to the
10 investigation or enforcement of the laws of this state pertaining
11 to offenses enumerated in section ~~86-703~~ 153 of this act when it
12 ~~shall~~ reasonably ~~appear~~ appears that such action is necessary and
13 proper. The attendance of witnesses and the production of records
14 shall be required from any place within the State of Nebraska.
15 Witnesses summoned by the Attorney General or a county attorney
16 shall be paid the same fees that are paid witnesses in the courts
17 of the State of Nebraska and mileage at the rate provided in
18 section 81-1176. ~~for state employees.~~

19 Sec. 175. Section 86-710, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-710.~~ A subpoena of the Attorney General or a county
22 attorney may be served by any person designated in the subpoena to
23 serve it. Service upon a natural person may be made by personal
24 delivery of the subpoena to him or her. Service may be made upon a
25 domestic or foreign corporation, upon a partnership, upon a
26 domestic or foreign limited liability company, or upon any other
27 unincorporated association which is subject to suit under a common
28 name, by delivering the subpoena to an officer, a managing or

1 general agent, a member, or any other agent authorized by
2 appointment or by law to receive service of process. The affidavit
3 of the person serving the subpoena entered on a true copy thereof
4 by the person serving it shall be proof of service.

5 Sec. 176. Section 86-711, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-711.~~ (1) If any person ~~shall refuse~~ refuses to obey a
8 subpoena issued to such person, the Attorney General or a county
9 attorney may invoke the aid of any court of the State of Nebraska
10 within the jurisdiction of which the investigation is carried on or
11 of which the subpoenaed person is an inhabitant, carries on
12 business, or may otherwise be found, to compel compliance with such
13 subpoena.

14 (2) The court may issue an order requiring the subpoenaed
15 person to appear before the Attorney General or a county attorney
16 to produce records, if so ordered, or to give testimony concerning
17 the matter under investigation. Nothing in this section shall be
18 construed to suspend or otherwise interfere with the operation of
19 the provisions of the Free Flow of Information Act or sections
20 27-503 to 27-506 and 27-605.

21 (3) Any failure to obey the order of the court may be
22 punished by the court as a contempt thereof. All process in any
23 such case may be served in the judicial district in which the
24 subpoenaed person is an inhabitant or may otherwise be found.

25 Sec. 177. Section 86-712, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~86-712.~~ No part of the contents of any intercepted wire
28 or oral communication and no evidence derived therefrom may be

1 received in evidence in any trial, hearing, or other proceeding in
2 or before any court, grand jury, department, officer, agency,
3 regulatory body, legislative committee, or other authority of the
4 United States, a state, or a political subdivision thereof if the
5 disclosure of that information would be in violation of ~~Chapter 86,~~
6 ~~article 7~~ sections 133 to 177 of this act.

7 Sec. 178. Section 86-208, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-208.~~ It ~~shall be~~ is unlawful for any telephone
10 company, ~~or~~ the owner or the lessee of any telephone system, or the
11 agent, officer, or employee of any such company, owner, or lessee
12 to directly or indirectly furnish to any state officer, state
13 appointee, or state employee, ~~or to~~ any member of the Legislature,
14 or ~~to~~ any county officer, a telephone or telephone service free of
15 charge, or for a price less than is charged other customers for
16 similar services.

17 Sec. 179. Section 86-209, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-209.~~ It ~~shall be~~ is unlawful for any state officer,
20 state appointee, or state employee, ~~or~~ any member of the
21 Legislature, or any county officer to directly or indirectly
22 receive or accept from any telephone company, ~~or~~ the owner or
23 lessee of any telephone system, or ~~from~~ the agent, officer, or
24 employee of any such company, ~~or~~ owner, or lessee, a telephone or
25 telephone service free of charge or for a price less than is
26 charged other customers for similar services.

27 Sec. 180. Section 86-210, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-210.~~ Any telephone company, or the owner or lessee of
2 any telephone system, ~~violating any of the provisions of sections~~
3 ~~86-208 and 86-209~~ who violates section 178 or 179 of this act, and
4 any agent, officer, or employee of any such company, ~~or owner,~~ or
5 lessee ~~of any telephone system~~ who ~~shall violate~~ violates, or ~~act~~
6 ~~or assist~~ acts or assists in the violation of ~~said~~ such sections,
7 ~~shall be~~ is guilty of a Class II misdemeanor.

8 Sec. 181. Section 86-211, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-211.~~ Any state officer, state appointee, or state
11 employee, ~~or~~ any member of the Legislature, or any county officer
12 who ~~shall violate any of the provisions of sections 86-208 and~~
13 ~~86-209,~~ shall be violates section 178 or 179 of this act, is guilty
14 of a Class II misdemeanor and shall forfeit the office held by such
15 person at the time of committing such offense.

16 Sec. 182. (1) In addition to any other criminal
17 procedure and penalty provided by law, any person who unlawfully
18 diverts or interferes with telecommunications service may be
19 subject to sections 28-515, 28-519, and 28-1311 and sections 432 to
20 434 and 469 of this act.

21 (2) In addition to any other civil procedure and remedy
22 provided by law, any person who unlawfully diverts
23 telecommunications service may be subject to actions authorized in
24 sections 425 to 428 of this act.

25 Sec. 183. Section 86-1301, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~86-1301.~~ Sections ~~86-1301 to 86-1307~~ 183 to 197 of this
28 act shall be known and may be cited as the Telecommunications Relay

1 System Act.

2 Sec. 184. Section 86-1302, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-1302.~~ The purpose of the Telecommunications Relay
5 System Act is to provide a statewide telecommunications relay
6 system and a statewide voucher program for the provision of
7 specialized telecommunications equipment for qualified deaf, hard
8 of hearing, or speech-impaired persons in Nebraska which enables
9 them to communicate twenty-four hours per day, seven days per week,
10 with other persons who use conventional telephone systems.

11 Sec. 185. Section 86-1303, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-1303.~~ For purposes of the Telecommunications Relay
14 System Act, the definitions found in sections 186 to 193 of this
15 act apply. +

16 ~~(1) Commission shall mean the Public Service Commission,~~

17 ~~(2) Deaf shall have the same meaning as in section~~
18 ~~71-4720.01,~~

19 ~~(3) Fund shall mean the Nebraska Telecommunications Relay~~
20 ~~System Fund,~~

21 ~~(4) Hard of hearing shall have the same meaning as in~~
22 ~~section 71-4720.01,~~

23 ~~(5) Household shall mean a family unit whose members are~~
24 ~~related by birth, marriage, or adoption and who share a common~~
25 ~~living arrangement,~~

26 ~~(6) Personal telephone service shall mean telephone~~
27 ~~service located in an individual's room and the telephone service~~
28 ~~account is in the individual's name,~~

1 ~~(7) Specialized telecommunications equipment shall mean~~
2 ~~any telecommunications device enabling deaf, hard of hearing, or~~
3 ~~speech-impaired persons to communicate using conventional telephone~~
4 ~~systems. Specialized telecommunications equipment shall include,~~
5 ~~but not be limited to, telecommunications devices for the deaf,~~
6 ~~signaling devices, and amplification devices, and~~

7 ~~(8) Telecommunications relay system shall mean a service~~
8 ~~permitting full and simultaneous communication between deaf, hard~~
9 ~~of hearing, or speech-impaired persons using specialized~~
10 ~~telecommunications equipment and other persons using conventional~~
11 ~~telephone equipment.~~

12 Sec. 186. Commission means the Public Service
13 Commission.

14 Sec. 187. Deaf has the same meaning as in section
15 71-4720.01.

16 Sec. 188. Fund means the Nebraska Telecommunications
17 Relay System Fund.

18 Sec. 189. Hard of hearing has the same meaning as in
19 section 71-4720.01.

20 Sec. 190. Household means a family unit whose members
21 are related by birth, marriage, or adoption and who share a common
22 living arrangement.

23 Sec. 191. Personal telephone service means telephone
24 service located in an individual's room and the telephone service
25 account is in the individual's name.

26 Sec. 192. Specialized telecommunications equipment means
27 any telecommunications device enabling deaf, hard of hearing, or
28 speech-impaired persons to communicate using conventional telephone

1 systems. Specialized telecommunications equipment includes, but is
2 not limited to, telecommunications devices for the deaf, signaling
3 devices, and amplification devices.

4 Sec. 193. Telecommunications relay system means a
5 service permitting full and simultaneous communication between
6 deaf, hard of hearing, or speech-impaired persons using specialized
7 telecommunications equipment and other persons using conventional
8 telephone equipment.

9 Sec. 194. Section 86-1304, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~86-1304.~~ There is hereby created the (1) The Nebraska
12 Telecommunications Relay System Fund is created. The fund shall be
13 used to provide a statewide telecommunications relay system and to
14 administer a statewide voucher program to provide specialized
15 telecommunications equipment to qualified deaf, hard of hearing,
16 and speech-impaired persons in Nebraska.

17 (2) Based upon the price of the equipment, vouchers shall
18 be issued by the program administrator to pay private vendors for
19 all or part of the cost of the equipment. After purchase, the
20 recipient is the owner of the equipment and responsible for
21 enforcement of any warranties and repairs.

22 (3) Any money in the fund available for investment shall
23 be invested by the state investment officer pursuant to the
24 Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act.

26 Sec. 195. Section 86-1305, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-1305.~~ (1) (a) Each telephone company in Nebraska shall

1 collect from each of the telephone subscribers a surcharge not to
2 exceed twenty cents per month on each telephone access line in
3 Nebraska, including cellular telephone service. The surcharge
4 shall only be collected on the first one hundred telephone access
5 lines per subscriber. The companies shall add the surcharge to
6 each subscriber's local telephone bill.

7 (b) The telephone companies ~~shall~~ are not ~~be~~ liable for
8 any surcharge not paid by a subscriber and ~~shall~~ are not ~~be~~
9 obligated to take legal action to collect the surcharge.

10 (2) Before October 1 of each year, the commission shall
11 hold a public hearing to determine the amount of surcharge
12 necessary to carry out the Telecommunications Relay System Act.
13 After the hearing, the commission shall set the surcharge at the
14 level necessary to fund the statewide telecommunications relay
15 system and the specialized telecommunications equipment program for
16 the following year plus a reasonable reserve. The surcharge shall
17 become effective on January 1 following the change. The amount
18 appropriated for the specialized telecommunications equipment
19 program from the fund shall not exceed the revenue generated by one
20 cent of the surcharge per month.

21 (3) In an emergency the commission may adjust the amount
22 of the surcharge to become effective before such date but only
23 after a public hearing for such purpose.

24 (4) The proceeds from the surcharge shall be remitted to
25 the commission monthly no later than thirty days after the end of
26 the month in which they were collected together with forms provided
27 by the commission. The commission shall remit the funds to the
28 State Treasurer for credit to the fund.

1 (5) The commission may require an audit of any telephone
2 company collecting the surcharge pursuant to the act.

3 Sec. 196. Section 86-1306, Revised Statutes Supplement,
4 2000, is amended to read:

5 ~~86-1306.~~ (1) The commission shall establish standards,
6 procedures, and training specifications for the telecommunications
7 relay system and shall supervise its operation. The
8 telecommunications relay system shall assure prompt and accurate
9 relay of all messages seven days per week, twenty-four hours per
10 day, including holidays, and shall provide at least the following
11 services to all deaf, hard of hearing, or speech-impaired persons
12 living in Nebraska who possess specialized telecommunications
13 equipment. Any person using the telecommunications relay system
14 shall not be charged for access to such system other than charges
15 billed for instate and out-of-state long-distance telephone
16 service. The telecommunications relay system shall at least
17 provide the following telephone services: (a) Statewide instate
18 calls with charges for long-distance calls billed to the person
19 making the call in a manner which the commission determines will
20 recover the cost of long-distance calls to the system; (b)
21 out-of-state calls with charges billed to the person making the
22 call; and (c) emergency calls. ~~Any person using the system shall~~
23 ~~not be charged for access to the system other than charges billed~~
24 ~~for instate and out-of-state long-distance service.~~

25 (2) The commission shall establish standards and criteria
26 and shall determine the eligibility of qualified deaf, hard of
27 hearing, and speech-impaired persons applying for specialized
28 telecommunications equipment. The eligible standards and criteria

1 shall ~~which~~ include the following: (a) Only one person per
2 household may be a recipient of the telecommunications equipment;
3 (b) an applicant shall reside in a household that has telephone
4 service; (c) a recipient of equipment may not reapply for
5 assistance more than once every five years; and (d) a nursing home
6 or institution resident is eligible for specialized
7 telecommunications equipment only if he or she has personal
8 telephone service.

9 (3) The commission may approve applications for
10 specialized telecommunications equipment ~~Applications may be~~
11 ~~approved~~ if they meet the guidelines established by the commission.

12 (4) The commission shall adopt and promulgate rules and
13 regulations necessary for implementation of the Telecommunications
14 Relay System Act and guidelines for the specialized
15 telecommunications equipment program. The commission may enter
16 into contracts with other agencies or private organizations, which
17 may include the Commission for the Deaf and Hard of Hearing, to
18 operate the telecommunications relay system and the specialized
19 telecommunications equipment program.

20 ~~(3)~~ (5) The ~~commission~~ Public Service Commission may
21 administratively fine pursuant to section 75-156 any person who
22 violates the act.

23 Sec. 197. Section 86-1307, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~86-1307.~~ The commission shall administer the
26 Telecommunications Relay System Act with the advice of a special
27 committee appointed by the Commission for the Deaf and Hard of
28 Hearing. The special committee shall consist of seven members as

1 follows: One member shall be a deaf person; one member shall be a
2 deaf or hard of hearing person; one member shall be a
3 speech-impaired person; one member shall represent the Public
4 Service Commission; one member shall represent the telephone
5 industry; one member shall represent the Commission for the Deaf
6 and Hard of Hearing; and one member shall represent the public.

7 Sec. 198. Section 86-1401, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-1401.~~ Sections ~~86-1401 to 86-1410~~ 198 to 211 of this
10 act shall be known and may be cited as the Nebraska
11 Telecommunications Universal Service Fund Act.

12 Sec. 199. Section 86-1402, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-1402.~~ The purpose of the Nebraska Telecommunications
15 Universal Service Fund Act is to authorize the commission to
16 establish a funding mechanism which supplements federal universal
17 service support mechanisms and ensures that all Nebraskans, without
18 regard to their location, have comparable accessibility to
19 telecommunications services at affordable prices.

20 Sec. 200. Section 86-1403, Revised Statutes Supplement,
21 2001, is amended to read:

22 ~~86-1403.~~ For purposes of the Nebraska Telecommunications
23 Universal Service Fund Act, the definitions found in sections 201
24 to 204 of this act apply. +

25 ~~(1) Commission means the Public Service Commission;~~

26 ~~(2) Fund means the Nebraska Telecommunications Universal~~
27 ~~Service Fund;~~

28 ~~(3) Telecommunications Act of 1996 means the federal~~

1 telecommunications legislation enacted as Public Law 104-104, as
2 such law existed on September 1, 2001, and

3 ~~(4) Telecommunications company means any natural person,~~
4 ~~firm, partnership, limited liability company, corporation, or~~
5 ~~association offering telecommunications services for hire in~~
6 ~~Nebraska intrastate commerce without regard to whether such company~~
7 ~~holds a certificate or permit from the commission.~~

8 Sec. 201. Commission means the Public Service
9 Commission.

10 Sec. 202. Fund means the Nebraska Telecommunications
11 Universal Service Fund.

12 Sec. 203. Telecommunications Act of 1996 means the
13 federal telecommunications legislation enacted as Public Law
14 104-104, as such law existed on the operative date of this section.

15 Sec. 204. Telecommunications company means any natural
16 person, firm, partnership, limited liability company, corporation,
17 or association offering telecommunications service for hire in
18 Nebraska intrastate commerce without regard to whether such company
19 holds a certificate of convenience and necessity as a
20 telecommunications common carrier or a permit as a
21 telecommunications contract carrier from the commission.

22 Sec. 205. Section 86-1404, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~86-1404.~~ The Legislature declares that it is the policy
25 of the state to preserve and advance universal service based on the
26 following principles:

27 (1) Quality telecommunications and information services
28 should be available at just, reasonable, and affordable rates;

1 (2) Access to advanced telecommunications and information
2 services should be provided in all regions of the state;

3 (3) Consumers in all regions of the state, including
4 low-income consumers and those in rural and high-cost areas, should
5 have access to telecommunications and information services,
6 including interexchange services and advanced telecommunications
7 and information services, that are reasonably comparable to those
8 services provided in urban areas and that are available at rates
9 that are reasonably comparable to rates charged for similar
10 services in urban areas;

11 (4) All providers of telecommunications services should
12 make an equitable and nondiscriminatory contribution to the
13 preservation and advancement of universal service;

14 (5) There should be specific, predictable, sufficient,
15 and competitively neutral mechanisms to preserve and advance
16 universal service. Funds for the support of high-cost service
17 areas will be available only to the designated eligible
18 telecommunications companies providing service to such areas.
19 Funds for the support of low-income customers, schools, libraries,
20 and providers of health care to rural areas will be available to
21 any entity providing telecommunications services, maintenance, and
22 upgrading of facilities. The distribution of universal service
23 funds should encourage the continued development and maintenance of
24 telecommunications infrastructure;

25 (6) Elementary and secondary schools, libraries, and
26 providers of health care to rural areas should have access to
27 advanced telecommunications services as described in the
28 Telecommunications Act of 1996. To promote the efficient use of

1 facilities in rural areas, universal service rules should not
2 preclude the sharing of facilities supported by universal service
3 funds with other local users, if such ineligible users pay
4 appropriate retail usage rates to the telecommunications company;

5 (7) The implicit support mechanisms in intrastate access
6 rates throughout the state may be replaced while ensuring that
7 local service rates in all areas of the state remain affordable;
8 and

9 (8) The costs of administration of the Nebraska
10 Telecommunications Universal Service Fund should be kept to a
11 minimum.

12 Sec. 206. Section 86-1405, Revised Statutes Supplement,
13 2001, is amended to read:

14 ~~86-1405-~~ (1) The Nebraska Telecommunications Universal
15 Service Fund is hereby created. The fund shall provide the
16 assistance necessary to make universal access to telecommunications
17 services available to all persons in the state consistent with the
18 policies set forth in the Nebraska Telecommunications Universal
19 Service Fund Act. Only eligible telecommunications companies
20 designated by the commission shall be eligible to receive support
21 to serve high-cost areas from the fund. A telecommunications
22 company that receives such support shall use that support only for
23 the provision, maintenance, and upgrading of facilities and
24 services for which the support is intended. Any such support
25 should be explicit and sufficient to achieve the purpose of the
26 act.

27 (2) Notwithstanding the provisions of section ~~86-808~~ 25
28 of this act, the commission (a) shall have authority and power to

1 issue orders carrying out its responsibilities and to review the
2 compliance of any eligible telecommunications company receiving
3 support for continued compliance with any such orders and may
4 withhold all or a portion of the funds to be distributed from any
5 telecommunications company failing to continue compliance with its
6 orders, (b) shall, consistent with the Telecommunications Act of
7 1996, require every telecommunications company to contribute to any
8 universal service mechanism established by the commission pursuant
9 to state law, and (c) may administratively fine pursuant to section
10 75-156 any person who violates the Nebraska Telecommunications
11 Universal Service Fund Act.

12 (3) Any money in the fund available for investment shall
13 be invested by the state investment officer pursuant to the
14 Nebraska Capital Expansion Act and the Nebraska State Funds
15 Investment Act.

16 Sec. 207. Section 86-1406, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-1406.~~ The commission shall determine the standards
19 and procedures reasonably necessary, adopt and promulgate rules and
20 regulations as reasonably required, and enter into such contracts
21 with other agencies or private organizations or entities as may be
22 reasonably necessary to efficiently develop, implement, and operate
23 the fund.

24 Sec. 208. Section 86-1407, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-1407.~~ The fund may be administered by a neutral
27 third-party administrator. The commission shall oversee the
28 preparation and selection process of the administrator through a

1 request for proposal process established by the commission. If a
2 third-party administrator is selected, the administrator shall
3 serve at the will of the commission. The administrator shall:
4 Gather the necessary data to estimate fund obligations; notify
5 telecommunications companies of their obligations to the fund;
6 collect and distribute money from the fund in accordance with the
7 Nebraska Telecommunications Universal Service Fund Act and the
8 rules and regulations established by the commission; and notify the
9 commission of any violations of the act and rules and regulations
10 by telecommunications companies with respect to the fund. The
11 commission shall audit the administrator to ensure the duties are
12 being performed in accordance with the act and its rules and
13 regulations. Any telecommunications company not meeting its
14 obligation to the fund shall not be eligible to receive payments
15 from the fund, shall be subject to administrative penalties to be
16 determined by the commission, and shall be subject to the
17 revocation of any certificate or permit issued pursuant to section
18 ~~75-604~~ 27 of this act or any predecessor statute.

19 Sec. 209. Section 86-1408, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-1408.~~ The commission shall oversee and the
22 administrator, if a third-party administrator is selected, shall
23 administer the fund with the advice of an advisory board appointed
24 by the commission. The number of members on such advisory board
25 shall be not less than seven nor more than nine members. The
26 composition of the membership of the advisory board shall be
27 determined by the commission and shall include the following
28 representatives: One member shall represent the commission; one

1 member shall represent elementary and secondary schools; one member
2 shall represent libraries; one member shall represent rural health
3 care providers; two members, but not more than three members, shall
4 represent telecommunications companies; and one member, but not
5 more than two members, shall represent the public. The advisory
6 board shall provide recommendations to the commission at the public
7 hearing held pursuant to section 84-1408. The advisory board shall
8 also, on an annual basis, recommend the services to be supported by
9 the fund.

10 Sec. 210. Section 86-1409, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-1409.~~ (1) Annually the commission shall hold a public
13 hearing to determine the level of the fund necessary to carry out
14 the Nebraska Telecommunications Universal Service Fund Act. The
15 commission shall publish notice of the hearing in at least one
16 newspaper of general circulation in the state at least once each
17 week for two consecutive weeks before the hearing. After the
18 hearing, the commission shall determine the amount of the fund for
19 the following year, including a reasonable reserve. In the initial
20 year of the fund's operation, the commission shall determine the
21 amount of the fund to be equivalent to the amount which, in the
22 commission's judgment, after careful analysis, is necessary to keep
23 approximately ninety-six percent of Nebraska households subscribed
24 to local telecommunications service.

25 (2) In an emergency as determined by the commission, the
26 commission may adjust the level of the fund, but only after a
27 public hearing for such purpose.

28 Sec. 211. Section 86-1410, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-1410.~~ (1) The commission shall establish the Nebraska
3 Lifeline Service Program. The purpose of the Nebraska Lifeline
4 Service Program shall be to promote the provision of universal
5 service to low-income households by local exchange carriers.
6 Support provided by the program shall be specifically targeted to
7 maintain affordable rates for residential basic local exchange
8 services supported by federal and state universal service
9 mechanisms. The commission shall establish means-tested
10 eligibility guidelines and standards for the provision of support
11 from the Nebraska Lifeline Service Program which are consistent
12 with the Telecommunications Act of 1996, ~~47 U.S.C. 254,~~ and any
13 ~~rules and~~ regulations adopted and promulgated by the Federal
14 Communications Commission, as such act and regulations existed on
15 the operative date of this section.

16 (2) Any local exchange carrier receiving state universal
17 service support shall be prohibited from disconnecting the basic
18 local exchange service of any customer receiving low-income support
19 from the Nebraska Lifeline Service Program for the nonpayment of
20 any interexchange toll service charges. The Public Service
21 Commission may grant limited waivers of this requirement in a
22 manner consistent with applicable ~~rules and~~ regulations adopted and
23 promulgated by the Federal Communications Commission, as such
24 regulations existed on the operative date of this section.

25 (3) Any person receiving low-income support from the
26 Nebraska Lifeline Service Program shall be exempt from the payment
27 of any surcharge established by the ~~commission~~ Public Service
28 Commission pursuant to the Nebraska Telecommunications Universal

1 Service Fund Act.

2 Sec. 212. Section 86-1803, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-1803.~~ Sections ~~86-1803 to 86-1811~~ 212 to 224 of this
5 act shall be known and may be cited as the Nebraska Public Safety
6 Wireless Communication System Act.

7 Sec. 213. Section 86-1804, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-1804.~~ The Legislature finds that:

10 (1) During emergencies the resources of the state and its
11 political subdivisions must be effectively directed to save lives,
12 to protect property, and to meet the needs of its citizens;

13 (2) Public safety agencies fulfill this unique and
14 essential role;

15 (3) Public safety agencies are only as effective as their
16 ability to communicate. To adequately ensure public safety, such
17 agencies require an efficient, reliable communication system which
18 accounts for their unique role and the specialized needs that
19 accompany such role;

20 (4) Present radio communication systems used by public
21 safety agencies during daily operations and emergencies are
22 deficient. Nebraska's systems are based on outdated technologies,
23 rely on inadequate equipment, are susceptible to communication
24 interference, have limited coverage areas, operate under the
25 constraints of a limited number of radio frequency channels, and
26 lack coordination and the ability to interoperate among city,
27 county, state, and federal users. Additionally, such systems
28 presently do not allow for secure transmissions which are necessary

1 for the protection and integrity of public safety communications;

2 (5) Recent changes and advances in communication
3 technology, including wireless communication, would increase the
4 capability of public safety agencies to provide efficient and
5 effective public safety services;

6 (6) Investment in the public safety communication
7 infrastructure is required to ensure the effectiveness of
8 Nebraska's public safety agencies. Since the maintenance of public
9 safety is a paramount concern but the cost of purchasing and
10 operating multiple communication infrastructures is prohibitive, it
11 is imperative that local and state public safety agencies cooperate
12 in their efforts to obtain a single statewide seamless
13 communication system;

14 (7) A statewide seamless communication system should
15 balance the need for multiple simultaneous users while maintaining
16 autonomy for the internal use of individual agencies. The
17 objectives of such a system should include maximizing resources and
18 reducing duplication among public safety agencies as well as
19 encouraging cooperation, coordination, consolidation, sharing, and
20 partnerships between public agencies and private entities. Such a
21 system should only be implemented after a precise needs assessment
22 has occurred so that the system meets today's public safety needs
23 and is capable of future additions, including mobile digital data
24 terminals, automatic vehicle locators, and other systems for
25 specific public safety applications; and

26 (8) Prior to implementation of a statewide seamless
27 communication system, there should be in place a process for
28 ongoing implementation, management, review, and improvement of such

1 system.

2 Sec. 214. Section 86-1805, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-1805.~~ For purposes of the Nebraska Public Safety
5 Wireless Communication System Act, the definitions found in
6 sections 215 to 218 of this act apply. +

7 ~~(1) Board means the Public Safety Wireless Communication~~
8 ~~Advisory Board created in section 86-1811,~~

9 ~~(2) Division means the division of communications of the~~
10 ~~Department of Administrative Services,~~

11 ~~(3) Public safety agency means any federal, state, or~~
12 ~~political subdivision entity which provides emergency and public~~
13 ~~safety services, including medical services, law enforcement~~
14 ~~services, fire management services, correctional services, and~~
15 ~~emergency and disaster relief services, and~~

16 ~~(4) System means a statewide seamless wireless~~
17 ~~communication system created in section 86-1806.~~

18 Sec. 215. Board means the Public Safety Wireless
19 Communication Advisory Board created in section 224 of this act.

20 Sec. 216. Division means the division of communications
21 of the Department of Administrative Services.

22 Sec. 217. Public safety agency means any federal, state,
23 or political subdivision entity which provides emergency and public
24 safety services, including medical services, law enforcement
25 services, fire management services, correctional services, and
26 emergency and disaster relief services.

27 Sec. 218. System means a statewide seamless wireless
28 communication system created in section 219 of this act.

1 Sec. 219. Section 86-1806, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~86-1806.~~ Based upon an implementation plan and the
4 ongoing advice and assistance of the board, the division shall
5 establish and implement a statewide seamless wireless communication
6 system for the use of all state public safety agencies. The
7 infrastructure of such system shall be operated and maintained by
8 the state within the division. The division shall allow local,
9 state, and federal public safety agencies to interconnect with the
10 state's infrastructure to enable multi-agency, multijurisdictional
11 responses to public safety situations.

12 Sec. 220. Section 86-1807, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-1807.~~ (1) An implementation plan for the system shall
15 be developed by the division and the board after the communication
16 needs of public safety agencies have been assessed. The
17 implementation plan shall build upon the recommendations contained
18 in the report dated January 1, 1999, and issued by the Task Force
19 for the Nebraska State Radio Communication System to the
20 Legislature and Governor. The plan shall contain technical and
21 logistical details of the system based upon the advice of an
22 independent consultant hired by the division and the board pursuant
23 to subsection (5) of this section. The plan shall:

24 (a) Outline the needs of the system, including
25 infrastructure capacity to:

26 (i) Support statewide voice and data radio
27 communications;

28 (ii) Provide wide-area and roaming access by public

1 safety agencies on a statewide basis;

2 (iii) Permit public safety agencies to interoperate when
3 needed but still maintain autonomy for daily functions;

4 (iv) Support coverage requirements to meet the needs of
5 public safety agencies; and

6 (v) Support technology requirements to meet the current
7 and future needs of public safety agencies;

8 (b) List the phases in developing the system, including a
9 timeline for local public safety agencies to migrate to the use of
10 the system so as to ensure that there are adequate resources to
11 meet the needs and allow planned progressive expansion of system
12 coverage and capacities; and

13 (c) Detail the estimated costs of the system, including
14 operating costs, incentive funds, and anticipated subscriber fees.

15 ~~The plan shall contain technical and logistical details~~
16 ~~of the system based upon the advice of an independent consultant~~
17 ~~hired by the division and the board pursuant to subsection (5) of~~
18 ~~this section.~~

19 (2) When assessing the needs of public safety agencies,
20 the board shall advise the division regarding ongoing planning and
21 strategy with state and local public safety entities. The division
22 shall work in conjunction with the Intergovernmental Data
23 Communications Advisory Council, the Nebraska Information
24 Technology Commission, and the Criminal Justice Advisory Committee
25 in fulfilling their missions related to the system. Needs
26 assessment shall focus on maximizing available resources and
27 minimizing duplication to facilitate the provision of seamless
28 statewide public safety services. The implementation plan shall

1 use and modify, as needed, existing state-owned tower sites and
2 facilities. The implementation plan shall provide for the leasing,
3 when feasible, of existing facilities, tower space, and equipment
4 shelters owned by local public or private entities. The ability to
5 use existing facilities for public safety communications shall take
6 into consideration the unique role and specialized needs of public
7 safety agencies, including the importance of communication
8 integrity and security.

9 (3) The board shall adopt and promulgate rules and
10 regulations as necessary concerning authorized use of the system.
11 Such rules and regulations shall address parameters for the
12 transmission of information over the system, including law
13 enforcement restrictions regarding confidential information.

14 (4) Upon completion, the plan shall be used to formulate
15 a request for procurement to select a system vendor.

16 (5) The division, with approval by the board, shall (a)
17 hire an independent consultant to assist in developing the
18 implementation plan and request for procurement and (b) select a
19 system vendor pursuant to a competitive bidding process. The
20 division and board may also contract with any private or public
21 entities or political subdivisions to assist in developing the
22 implementation plan. The division shall administer the operational
23 funds to finance this subsection.

24 Sec. 221. Section 86-1808, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-1808.~~ (1) The division and board shall assist public
27 safety agencies joining the system and interface the agencies'
28 existing equipment into the system when feasible. Public safety

1 agencies shall purchase and own their subscriber equipment to
2 interconnect with the system infrastructure. Public safety
3 agencies shall be assessed a subscriber fee as determined by the
4 division for use of the system. The subscriber fee shall be
5 collected by the division and credited to the Public Safety
6 Communications Fund.

7 (2) The Public Safety Communications Fund is created.
8 The fund shall be administered by the division. The fund shall
9 contain subscriber fees for use of the system as well as any public
10 or private funds, including federal grant money. The board shall
11 have oversight over any expenditures from the fund. Any money in
12 the fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act
14 and the Nebraska State Funds Investment Act.

15 Sec. 222. Section 86-1809, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~86-1809.~~ The board with the division shall develop
18 incentives to encourage regional cooperation in public safety
19 communication throughout the state. The board shall assist local
20 communities and public safety agencies which desire to connect with
21 the system. Incentive alternatives may include financial
22 incentives to encourage migration by communities to the system and
23 to reward communities which coordinate efforts to form public
24 safety communication centers. Such incentives shall not mandate
25 migration by public safety agencies to the system.

26 Sec. 223. Section 86-1810, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-1810.~~ Upon installation of the system infrastructure:

- 1 (1) The division shall have a continuing duty to:
- 2 (a) Operate, maintain, and manage the system;
- 3 (b) Supervise the migration of public safety agencies to
- 4 the system and develop a set of factors to determine prioritization
- 5 of agencies migrating to the system;
- 6 (c) Assess the need for, and estimate usage of, any
- 7 system resources, upgrades, and expansions; and
- 8 (d) Administer the Public Safety Communications Fund; and
- 9 (2) The board shall have a continuing duty to:
- 10 (a) Develop proposals for the administration of system
- 11 resources, upgrades, and expansions;
- 12 (b) Determine the availability of financial resources for
- 13 system resources, upgrades, and expansions;
- 14 (c) Assess the communication needs of public safety
- 15 agencies;
- 16 (d) Remain abreast of developments in communication
- 17 technology as it impacts public safety agencies;
- 18 (e) Coordinate communication strategy with other public
- 19 and private entities, including political subdivisions, when
- 20 feasible; and
- 21 (f) Oversee any expenditures from the Public Safety
- 22 Communications Fund.

23 Sec. 224. Section 86-1811, Reissue Revised Statutes of

24 Nebraska, is amended to read:

25 ~~86-1811.~~ (1) The Public Safety Wireless Communication

26 Advisory Board is created. The board shall provide advice to the

27 division to implement the Nebraska Public Safety Wireless

28 Communication System Act. For administrative and budgetary

1 purposes, the board shall be within the division. The division
2 shall provide office space, equipment, technical assistance, and
3 staff support for the board.

4 (2) The board shall consist of the following members, all
5 of whom shall be individuals with knowledge of the communication
6 needs of their represented agencies or constituencies:

7 (a) A representative of the division who is an ex officio
8 member;

9 (b) A representative of the Department of Correctional
10 Services;

11 (c) A representative of the Department of Roads;

12 (d) A representative of the Game and Parks Commission;

13 (e) A representative of the Nebraska State Patrol;

14 (f) A representative of the Department of Health and
15 Human Services Regulation and Licensure;

16 (g) A representative of the Nebraska Emergency Management
17 Agency;

18 (h) A representative of the Nebraska County Sheriffs
19 Association;

20 (i) A representative of the Police Officers Association
21 of Nebraska;

22 (j) A representative of the Nebraska Association of
23 County Officials;

24 (k) A representative of the League of Nebraska
25 Municipalities;

26 (l) A representative of the Criminal Justice Advisory
27 Committee;

28 (m) A representative of professional firefighters;

1 (n) A representative of volunteer firefighters; and

2 (o) A representative of emergency medical services.

3 (3) A chairperson of the board shall be elected annually
4 by a vote of the majority of the board. The board may establish
5 subcommittees and working groups as deemed necessary.

6 ~~(3)~~ (4) Members of the board representing agencies listed
7 in subdivisions (2)(a) through (2)(l) of this section shall be
8 appointed by their respective agencies, and members representing
9 constituencies listed in subdivisions (2)(m) through (2)(o) of this
10 section shall be appointed by the Governor. ~~Initial appointments~~
11 ~~to the board shall be made within thirty days after May 26, 1999.~~
12 In the case of a vacancy, a successor shall be appointed in the
13 same manner as the initial appointment.

14 ~~(4)~~ (5) The board shall hold at least four meetings
15 annually. ~~The first organizational meeting shall be held within~~
16 ~~sixty days after May 26, 1999.~~ A quorum of voting members is
17 required to conduct business. Members shall be reimbursed from the
18 Public Safety Communications Fund for their actual and necessary
19 expenses incurred in the performance of their duties as provided in
20 sections 81-1174 to 81-1177.

21 ~~(5)~~ (6) Prior to December 1 of each year, the board shall
22 provide a written report to the Legislature on the progress of the
23 system.

24 Sec. 225. Sections 225 to 246 of this act shall be known
25 and may be cited as the Emergency Telephone Communications Systems
26 Act.

27 Sec. 226. Section 86-1001, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-1001.~~ The Legislature finds that 911 emergency
2 telephone communications systems further the public interest and
3 protect the health, safety, and welfare of the people of Nebraska.
4 The purpose of ~~sections 86-1001 to 86-1009~~ the Emergency Telephone
5 Communications Systems Act is to fund the development,
6 installation, and operation of 911 emergency telephone
7 communications systems throughout the state.

8 Sec. 227. Section 86-1002, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-1002.~~ For purposes of the Emergency Telephone
11 Communications Systems Act, the definitions found in sections 228
12 to 239 of this act apply. ~~sections 86-1001 to 86-1009.~~

13 ~~(1) Automatic location identification shall mean a~~
14 ~~feature by which the name and address associated with the calling~~
15 ~~party's telephone number is forwarded to the public safety~~
16 ~~answering point for display. Additional telephones with the same~~
17 ~~telephone number as the calling party's shall be identified with~~
18 ~~the address of the telephone number at the main location of the~~
19 ~~calling party. This feature shall be available only for E-911~~
20 ~~service.~~

21 ~~(2) Automatic number identification shall mean a feature~~
22 ~~by which the calling party's automatic number identification~~
23 ~~telephone number is forwarded to the E-911 control office and to~~
24 ~~the public safety answering point's display and transfer units.~~
25 ~~This feature shall be available only for E-911 service.~~

26 ~~(3) E-911 service or enhanced 911 service shall mean a~~
27 ~~telephone exchange communications service by which one or more~~
28 ~~public safety answering points designated by the governing body may~~

1 receive telephone calls dialed to the telephone number 911. ~~E-911~~
2 service generally may provide, but is not limited to, selective
3 routing, automatic number identification, and automatic location
4 identification features,

5 (4) Governing body shall mean the board of county
6 commissioners or supervisors of a county, the city council of a
7 city, the board of trustees of a village, or the board of directors
8 of any rural or suburban fire protection district,

9 (5) Local exchange access line shall mean any telephone
10 line that has the ability to access local dial tone and reach a
11 public safety answering point by dialing 911,

12 (6) 911 service shall mean a telephone service which
13 provides a service user with the ability to reach a public safety
14 answering point by dialing the digits 911 for the purpose of
15 reporting emergencies. The level of technology to be used for the
16 provision of 911 service in a particular 911 service area shall be
17 determined by the governing bodies having jurisdiction over such
18 area,

19 (7) 911 service area shall mean (a) the portion of a
20 governing body's jurisdiction in which 911 service is provided and
21 (b) an area being provided 911 service by contract with a service
22 supplier on or before January 1, 1990, notwithstanding the crossing
23 of jurisdictional lines, until such time as the noncontracting
24 governing body notifies the contracting governing body in writing
25 of its intention to opt out of the 911 service area,

26 (8) Public safety agency shall mean an agency which
27 actually provides firefighting, law enforcement, ambulance,
28 emergency medical, or other emergency services,

1 ~~(9) Public safety answering point shall mean a~~
2 ~~twenty-four-hour, local-jurisdiction communications facility which~~
3 ~~receives 911 service calls and either directly dispatches emergency~~
4 ~~services or relays calls to the appropriate public safety agency;~~

5 ~~(10) Service supplier shall mean any person providing 911~~
6 ~~service in this state;~~

7 ~~(11) Service surcharge shall mean a charge set by a~~
8 ~~governing body and assessed on each local exchange access line~~
9 ~~which physically terminates within the governing body's designated~~
10 ~~911 service area; and~~

11 ~~(12) Service user shall mean any person who is provided~~
12 ~~local exchange access line service in this state.~~

13 Sec. 228. Automatic location identification means a
14 feature by which the name and address associated with the calling
15 party's telephone number is forwarded to the public safety
16 answering point for display. Additional telephones with the same
17 telephone number as the calling party's shall be identified with
18 the address of the telephone number at the main location of the
19 calling party. This feature is available only for E-911 service.

20 Sec. 229. Automatic number identification means a
21 feature by which the calling party's automatic number
22 identification telephone number is forwarded to the E-911 control
23 office and to the public safety answering point's display and
24 transfer units. This feature is available only for E-911 service.

25 Sec. 230. E-911 service or enhanced-911 service means a
26 telephone exchange communications service by which one or more
27 public safety answering points designated by the governing body may
28 receive telephone calls dialed to the telephone number 911. E-911

1 service generally may provide, but is not limited to, selective
2 routing, automatic number identification, and automatic location
3 identification features.

4 Sec. 231. Governing body means the county board, the
5 city council of a city, the board of trustees of a village, or the
6 board of directors of any rural or suburban fire protection
7 district.

8 Sec. 232. Local exchange access line means any telephone
9 line that has the ability to access local dial tone and reach a
10 public safety answering point by dialing 911.

11 Sec. 233. 911 service means a telephone service which
12 provides a service user with the ability to reach a public safety
13 answering point by dialing the digits 911 for the purpose of
14 reporting emergencies. The level of technology to be used for the
15 provision of 911 service in a particular 911 service area shall be
16 determined by the governing bodies having jurisdiction over such
17 911 service area.

18 Sec. 234. 911 service area means (1) the portion of a
19 governing body's jurisdiction in which 911 service is provided and
20 (2) an area being provided 911 service by contract with a service
21 supplier on or before January 1, 1990, notwithstanding the crossing
22 of jurisdictional lines, until such time as the noncontracting
23 governing body notifies the contracting governing body in writing
24 of its intention to opt out of the 911 service area.

25 Sec. 235. Public safety agency means an agency which
26 actually provides firefighting, law enforcement, ambulance,
27 emergency medical, or other emergency services.

28 Sec. 236. Public safety answering point means a

1 twenty-four-hour, local-jurisdiction communications facility which
2 receives 911 service calls and either directly dispatches emergency
3 services or relays calls to the appropriate public safety agency.

4 Sec. 237. Service supplier means any person providing
5 911 service in this state.

6 Sec. 238. Service surcharge means a charge set by a
7 governing body and assessed on each local exchange access line
8 which physically terminates within the governing body's designated
9 911 service area.

10 Sec. 239. Service user means any person who is provided
11 local exchange access line service in this state.

12 Sec. 240. Section 86-1003, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-1003.~~ (1) A governing body may incur any nonrecurring
15 or recurring charges for the installation, maintenance, and
16 operation of 911 service and shall pay such costs out of general
17 funds which may be supplemented by funds from the imposition of a
18 service surcharge. A governing body incurring costs for 911
19 service may impose a uniform service surcharge of up to fifty cents
20 per month on each local exchange access line physically terminating
21 in the governing body's 911 service area. The initial service
22 surcharge may be imposed at any time subsequent to the execution of
23 an agreement for 911 service with a service supplier.

24 (2) Except in a county containing a city of the
25 metropolitan class, such uniform service surcharge in subsection
26 (1) of this section may be increased by an additional amount not to
27 exceed fifty cents per month. Such additional increase shall be
28 made only after:

1 (a) Publication of notices for a public hearing. Such
2 notices shall:

3 (i) Be published at least once a week for three
4 consecutive weeks in a legal newspaper published or of general
5 circulation in the areas affected;

6 (ii) Set forth the time, place, and date of such public
7 hearing; and

8 (iii) Set forth the purpose of the public hearing and the
9 purpose of the increase; and

10 (b) A public hearing is held pursuant to such notices.

11 (3) If 911 service is to be provided for a territory
12 which is included in whole or in part in the jurisdiction of two or
13 more governing bodies, the agreement for such service shall be
14 entered into by each such governing body unless any such governing
15 body expressly excludes itself from the agreement. Such an
16 agreement shall provide that each governing body which is a
17 customer of 911 service will pay for its portion of the service.
18 Nothing in this subsection shall be construed to prevent two or
19 more governing bodies from entering into a contract which
20 establishes a separate legal entity for the purpose of entering
21 into such an agreement as the customer of the service supplier or
22 any supplier of equipment for 911 service.

23 (4) If a governing body's 911 service area includes a
24 local exchange area which intersects governmental boundary lines,
25 the affected governmental units may cooperate to provide 911
26 service through an interlocal agreement as provided in the
27 Interlocal Cooperation Act or the Joint Public Agency Act. The
28 agreement shall provide for the assessment of a uniform service

1 surcharge within a governing body's 911 service area. The service
2 surcharge on each local exchange access line physically terminating
3 in the governing body's 911 service area shall be the same as the
4 amount allowed in subsections (1) and (2) of this section.

5 (5) Funds generated by the service surcharge shall be
6 expended only for the purchase, installation, maintenance, and
7 operation of telecommunications equipment and
8 telecommunications-related services required for the provision of
9 911 service.

10 Sec. 241. Section 86-1004, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-1004.~~ (1) A service user shall pay service surcharges
13 in each 911 service area where the service user has local exchange
14 access line service and receives 911 service, except that an
15 individual service user shall not be required to pay on a single
16 periodic billing service surcharges on more than one hundred local
17 exchange access lines, or their equivalent, in any single 911
18 service area. Every service user shall be liable for any service
19 surcharge billed to such user until the surcharge has been paid to
20 the service supplier.

21 (2) The duty of a service supplier to bill a service
22 surcharge to a service user shall commence at such time as may be
23 specified by the governing body. A service surcharge shall be
24 collected as far as practicable at the same time as and along with
25 the charges for local exchange access lines in accordance with the
26 regular billing practice of the service supplier.

27 (3) A service supplier shall have no obligation to take
28 any legal action to enforce the collection of any service surcharge

1 imposed pursuant to section ~~86-1003~~ 240 of this act. Such action
2 may be brought by or on behalf of the governing body imposing the
3 charge or the separate legal entity formed pursuant to such
4 section. A service supplier shall annually provide the governing
5 body a list of the amounts uncollected along with the names and
6 addresses of those service users who carry a balance that can be
7 determined by the service supplier to be for nonpayment of any
8 service surcharge. The service supplier shall not be liable for
9 such uncollected amounts.

10 Sec. 242. Section 86-1005, Revised Statutes Supplement,
11 2000, is amended to read:

12 ~~86-1005.~~ (1) The amount of service surcharges collected
13 in one calendar quarter by a service supplier shall be remitted to
14 the governing body no later than sixty days after the close of that
15 calendar quarter. At the time of the remittance, the service
16 supplier shall file a return for the remittance with the governing
17 body in such form as the governing body and the service supplier
18 agree upon. The service supplier shall maintain a record of the
19 amount of service surcharges collected. The record shall be
20 maintained for a period of one year after the date the amount was
21 billed. A governing body may at its own expense require an annual
22 audit of a service supplier's books and records concerning the
23 collection and remittance of a service surcharge.

24 (2) ~~Each~~ On or before April 30 of each year, each service
25 supplier shall report for the preceding calendar year to the Public
26 Service Commission for each of its exchanges (a) whether 911
27 service or E-911 service is provided in that exchange, (b) the
28 level of the service surcharge, (c) the location of the public

1 safety answering point, (d) whether the governing body belongs to
2 an interlocal agreement or other agreement with another governing
3 body and, if so, the name of the other governing body, and (e) the
4 amount of revenue collected by the service surcharge.

5 The initial report shall be due April 30, 1994, for
6 calendar year 1993 and subsequent reports shall be due no later
7 than April 30 of each year. The report period shall be the
8 preceding calendar year.

9 (3) The commission shall compile and place the
10 information from such reports required in subsection (2) of this
11 section into its annual telecommunications report to the
12 Legislature, including the availability and location of 911 service
13 and E-911 service in the State of Nebraska.

14 (4) The commission shall adopt and promulgate rules and
15 regulations necessary to carry out subsections (2) and (3) of this
16 section.

17 (5) The commission may administratively fine pursuant to
18 section 75-156 any person who violates ~~sections 86-1001 to 86-1009~~
19 the Emergency Telephone Communications Systems Act.

20 Sec. 243. Section 86-1006, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~86-1006.~~ Each calendar year, the governing body shall
23 establish the rate of the service surcharge, not to exceed the
24 amount authorized by section ~~86-1003~~ 240 of this act, that together
25 with any surplus revenue carried forward will produce sufficient
26 revenue to fund the expenditures described in section ~~86-1001~~ 226
27 of this act. Amounts collected in excess of such necessary
28 expenditures within a given year shall be carried forward to the

1 next year. A governing body shall make its determination of the
2 rate no later than September 1 of each year and, if it is a new
3 rate, shall fix the new rate to take effect commencing with the
4 first billing period of each service user on or following the next
5 January 1. The governing body shall notify by certified or
6 registered mail every service supplier of any change in the rate at
7 least ninety days before the new rate becomes effective.

8 Sec. 244. Section 86-1007, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-1007.~~ Funds collected by a governing body from the
11 imposition of a service surcharge shall be credited to a separate
12 fund apart from the general revenue of the governing body and shall
13 be used solely to pay for costs for 911 service. Any money
14 remaining in the fund at the end of any fiscal year shall remain in
15 the fund for payments during any succeeding year, except that if
16 911 service is discontinued, money remaining in the fund after
17 payment of all costs related to 911 service have been made shall be
18 transferred to the general fund of the public safety agency or
19 proportionately to the general fund of each participating public
20 safety agency.

21 Sec. 245. Section 86-1008, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~86-1008.~~ Any governing body authorized to impose a
24 service surcharge may enter into an agreement directly with a
25 service supplier of 911 service or may contract and cooperate with
26 any public safety agency, with other states or their political
27 subdivisions, or with any association or corporation for the
28 administration of 911 service as provided by law.

1 Sec. 246. Section 86-1009, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~86-1009.~~ The 911 service described in ~~sections 86-1001~~
4 ~~to 86-1009~~ the Emergency Telephone Communications Systems Act is
5 within the governmental powers and authorities of a governing body
6 or public safety agency. In contracting for such 911 service and
7 in providing such 911 service, except for failure to use reasonable
8 care or for intentional acts, each governing body, public safety
9 agency, and service supplier and their employees and agents shall
10 be immune from liability or the payment for any damages in the
11 performance of installing, maintaining, or providing 911 service.

12 Sec. 247. Sections 247 to 274 of this act shall be known
13 and may be cited as the Enhanced Wireless 911 Services Act.

14 Sec. 248. Section 86-2201, Revised Statutes Supplement,
15 2001, is amended to read:

16 ~~86-2201.~~ For purposes of the Enhanced Wireless 911
17 Services Act, the definitions found in sections 249 to 261 of this
18 act apply. sections 86-2201 to 86-2214.

19 ~~(1) Advisory board means the Enhanced Wireless 911~~
20 ~~Advisory Board,~~

21 ~~(2) Automatic number identification means a feature by~~
22 ~~which a person calling a public safety answering point has his or~~
23 ~~her ten-digit telephone number simultaneously forwarded to the~~
24 ~~public safety answering point and to the public safety answering~~
25 ~~point's display and transfer units,~~

26 ~~(3) Commission means the Public Service Commission,~~

27 ~~(4) E-911 service has the same meaning as in subdivision~~
28 ~~(3) of section 86-1002,~~

1 ~~(5) Enhanced wireless 911 service means a telephone~~
2 ~~exchange communications service by which wireless carriers can~~
3 ~~provide automatic number identification, pseudo-automatic number~~
4 ~~identification, and wireless automatic location identification~~
5 ~~information to a public safety answering point which has capability~~
6 ~~of providing selective routing, selective transfer, fixed transfer,~~
7 ~~automatic number identification, and wireless automatic location~~
8 ~~identification,~~

9 ~~(6) Governing body has the same meaning as in subdivision~~
10 ~~(4) of section 86-1002,~~

11 ~~(7) 911 service has the same meaning as in subdivision~~
12 ~~(6) of section 86-1002,~~

13 ~~(8) Pseudo-automatic number identification means a~~
14 ~~feature by which automatic number identification is provided to a~~
15 ~~public safety answering point of the ten-digit telephone number of~~
16 ~~the specific cell site or cell site sector from which a wireless~~
17 ~~call originated,~~

18 ~~(9) Public safety agency has the same meaning as in~~
19 ~~subdivision (8) of section 86-1002,~~

20 ~~(10) Public safety answering point has the same meaning~~
21 ~~as in subdivision (9) of section 86-1002,~~

22 ~~(11) Ten-digit telephone number means a telephone number~~
23 ~~assigned to a particular telephone account prefaced by the area~~
24 ~~code,~~

25 ~~(12) Wireless automatic location identification means a~~
26 ~~feature by which information is provided to a public safety~~
27 ~~answering point identifying the location, the latitude and~~
28 ~~longitude within the parameters established by the Federal~~

1 ~~Communication Commission, of a wireless unit originating a call to~~
2 ~~a public safety answering point, and~~

3 ~~(13) Wireless carrier means (a) any carrier of commercial~~
4 ~~mobile radio service as defined in 47 U.S.C. 153(27) and 332(d), as~~
5 ~~such sections existed on April 18, 2001, and 47 C.F.R. 20.18, as~~
6 ~~such section existed on April 18, 2001, or (b) any cellular~~
7 ~~licensee, personal communications licensee, and specialized mobile~~
8 ~~radio carrier defined in 47 C.F.R. 20.18, as such section existed~~
9 ~~on April 18, 2001.~~

10 Sec. 249. Advisory board means the Enhanced Wireless 911
11 Advisory Board.

12 Sec. 250. Automatic number identification means a
13 feature by which a person calling a public safety answering point
14 has his or her ten-digit telephone number simultaneously forwarded
15 to the public safety answering point and to the public safety
16 answering point's display and transfer units.

17 Sec. 251. Commission means the Public Service
18 Commission.

19 Sec. 252. E-911 service has the same meaning as in
20 section 230 of this act.

21 Sec. 253. Enhanced wireless 911 service means a
22 telephone exchange communications service by which wireless
23 carriers can provide automatic number identification,
24 pseudo-automatic number identification, and wireless automatic
25 location identification information to a public safety answering
26 point which has the capability of providing selective routing,
27 selective transfer, fixed transfer, automatic number
28 identification, and wireless automatic location identification.

1 Sec. 254. Governing body has the same meaning as in
2 section 231 of this act.

3 Sec. 255. 911 service has the same meaning as in section
4 233 of this act.

5 Sec. 256. Pseudo-automatic number identification means a
6 feature by which automatic number identification is provided to a
7 public safety answering point of the ten-digit telephone number of
8 the specific cell site or cell site sector from which a wireless
9 call originated.

10 Sec. 257. Public safety agency has the same meaning as
11 in section 235 of this act.

12 Sec. 258. Public safety answering point has the same
13 meaning as section 236 of this act.

14 Sec. 259. Ten-digit telephone number means a telephone
15 number assigned to a particular telephone account prefaced by the
16 area code.

17 Sec. 260. Wireless automatic location identification
18 means a feature by which information is provided to a public safety
19 answering point identifying the location, including the latitude
20 and longitude within the parameters established by the Federal
21 Communications Commission, of a wireless unit originating a call to
22 a public safety answering point.

23 Sec. 261. Wireless carrier means (1) any carrier of
24 commercial mobile radio service as defined in 47 U.S.C. 153(27) and
25 332(d), as such sections existed on the operative date of this
26 section, and 47 C.F.R. 20.18, as such section existed on the
27 operative date of this section, or (2) any cellular licensee,
28 personal communications licensee, and specialized mobile radio

1 carrier defined in 47 C.F.R. 20.18, as such section existed on the
2 operative date of this section.

3 Sec. 262. Section 86-2202, Revised Statutes Supplement,
4 2001, is amended to read:

5 ~~86-2202. Commencing July 1, 2001, each~~ Each wireless
6 carrier who has a subscriber with a billing address in Nebraska
7 shall collect a surcharge of not more than fifty cents per month
8 per access line. The wireless carrier shall add the surcharge to
9 each subscriber's billing statement. The wireless carrier ~~shall~~ is
10 not ~~be~~ liable for any surcharge not paid by a subscriber and ~~shall~~
11 is not ~~be~~ obligated to take legal action to collect the surcharge.
12 The surcharge shall appear as a separate line-item charge on the
13 subscriber's billing statement and shall be labeled as "Enhanced
14 Wireless 911 Surcharge". The commission may take any legal action
15 as it deems necessary to collect unpaid surcharges in its own name,
16 as a real party in interest, or by assigning such debt for
17 collection to a third party.

18 Sec. 263. Section 86-2203, Revised Statutes Supplement,
19 2001, is amended to read:

20 ~~86-2203. The commission shall hold a public hearing~~
21 annually to determine the amount of revenue necessary to carry out
22 the ~~provisions of sections 86-2201 to 86-2214~~ Enhanced Wireless 911
23 Services Act. After the hearing, the commission shall determine
24 the amount of money to be deposited in the Enhanced Wireless 911
25 Fund for the following year and shall set the surcharge subject to
26 the limitation in section ~~86-2202~~ 262 of this act.

27 Sec. 264. Section 86-2204, Revised Statutes Supplement,
28 2001, is amended to read:

1 ~~86-2204.~~ Each wireless carrier shall remit monthly to
2 the commission the amount of surcharge collected together with any
3 forms required by the commission no later than sixty days after the
4 last day of the month. The wireless carrier shall report the
5 number of wireless lines served and the number of wireless lines
6 from which it has collected surcharge revenue. The wireless
7 carrier shall maintain surcharge and remittance records for a
8 period of two years after the date of the subscriber's billing
9 statement. The commission shall remit the funds to the State
10 Treasurer for credit to the Enhanced Wireless 911 Fund. The
11 commission may at its own expense require an audit of any wireless
12 carrier's books and records concerning the collection and
13 remittance of the surcharge pursuant to ~~sections 86-2201 to 86-2214~~
14 the Enhanced Wireless 911 Services Act.

15 Sec. 265. Section 86-2205, Revised Statutes Supplement,
16 2001, is amended to read:

17 ~~86-2205.~~ (1) Each public safety answering point shall
18 report to the commission annually ~~(1)~~ (a) the name and location of
19 the public safety answering point and ~~(2)~~ (b) whether wireless 911
20 service or enhanced wireless 911 service is provided at that public
21 safety answering point.

22 (2) The commission shall compile and place the
23 information required in this section into its annual
24 telecommunications report to the Legislature.

25 Sec. 266. Section 86-2206, Revised Statutes Supplement,
26 2001, is amended to read:

27 ~~86-2206.~~ (1) The Enhanced Wireless 911 Advisory Board is
28 created to advise the commission concerning the implementation,

1 development, administration, coordination, evaluation, and
2 maintenance of enhanced wireless 911 service. The advisory board
3 shall be composed of ten individuals appointed by the Governor,
4 including:

5 ~~(1)~~ (a) One sheriff;

6 ~~(2)~~ (b) Two county officials or employees;

7 ~~(3)~~ (c) Two municipal officials or employees;

8 ~~(4)~~ (d) Two representatives from the state's wireless
9 telecommunications industry;

10 ~~(5)~~ (e) One manager of a public safety answering point
11 not employed by a sheriff;

12 ~~(6)~~ (f) One representative of the state's local exchange
13 telecommunications service industry;

14 ~~(7)~~ (g) One commissioner from the Public Service
15 Commission or his or her designee who shall serve as an ex officio
16 member; and

17 ~~(8)~~ (h) The Director of Administrative Services or his or
18 her designee who shall serve as an ex officio member.

19 ~~For members~~ (2) Members of the ~~initial~~ board as described
20 in subdivisions (1) (a) through ~~(6)~~ (1) (f) of this section, ~~three~~
21 ~~members shall be appointed for a term of one year, three members~~
22 ~~shall be appointed for a term of two years, and three members shall~~
23 be appointed for a term of three years. Each succeeding member of
24 the board shall be appointed for a term of three years. The board
25 shall meet as often as necessary to carry out its duties. Members
26 of the board shall be reimbursed for their actual and necessary
27 expenses as provided in sections 81-1174 to 81-1177.

28 Sec. 267. Section 86-2207, Revised Statutes Supplement,

1 2001, is amended to read:

2 ~~86-2207.~~ (1) The advisory board shall make
3 recommendations to the commission regarding the implementation of
4 ~~sections 86-2201 to 86-2214~~ the Enhanced Wireless 911 Services Act,
5 including:

6 ~~(1)~~ (a) The allocation of funds from the Enhanced
7 Wireless 911 Fund as specified in section ~~86-2210~~ 270 of this act;

8 ~~(2)~~ (b) Rules and regulations necessary to carry out the
9 ~~provisions of sections 86-2201 to 86-2214~~ act;

10 ~~(3)~~ (c) Any adjustments in the surcharge amount to
11 recommend to the Legislature; and

12 ~~(4)~~ (d) The resolution of any disputes between public
13 safety answering points and wireless carriers.

14 (2) The commission may approve and implement any
15 recommendations of the advisory board.

16 Sec. 268. Section 86-2208, Revised Statutes Supplement,
17 2001, is amended to read:

18 ~~86-2208.~~ The Enhanced Wireless 911 Fund is created. The
19 fund shall consist of the surcharges credited to the fund, any
20 money appropriated by the Legislature, any federal funds received
21 for wireless emergency communication, and any other funds
22 designated for credit to the fund. Money in the fund shall be used
23 for the costs of administering the fund and the purposes specified
24 in section ~~86-2210~~ 270 of this act unless otherwise directed by
25 federal law with respect to any federal funds. The costs of
26 administering the fund shall be kept to a minimum. Until July 1,
27 2004, the money in the fund shall not be subject to any fiscal-year
28 limitation or lapse provision of unexpended balance at the end of

1 any fiscal year or biennium. Any money in the fund available for
2 investment shall be invested by the state investment officer
3 pursuant to the Nebraska Capital Expansion Act and the Nebraska
4 State Funds Investment Act.

5 Sec. 269. Section 86-2209, Revised Statutes Supplement,
6 2001, is amended to read:

7 ~~86-2209.~~ A public safety answering point may enter into
8 a service agreement with one or more wireless carriers. The
9 commission shall determine the most efficient method for providing
10 enhanced wireless 911 service.

11 Sec. 270. Section 86-2210, Revised Statutes Supplement,
12 2001, is amended to read:

13 ~~86-2210.~~ (1) The commission shall, in consultation with
14 the advisory board:

15 (a) Determine the costs to implement wireless automatic
16 location identification;

17 (b) Determine the level of funding needed to trigger
18 disbursements pursuant to ~~sections 86-2201 to 86-2214~~ the Enhanced
19 Wireless 911 Services Act;

20 (c) Determine the percentage of the fund to be allocated
21 to each funding purpose, including the percentage that shall be
22 designated for funding 911 service under subdivision (2)(c) of this
23 section; and

24 (d) Determine how the funds distributed under
25 subdivisions (2)(a) and (2)(c) of this section are to be allocated
26 among the wireless carriers and the public safety answering points.

27 (2) The commission shall, in consultation with the
28 advisory board, establish eligibility standards and criteria for

1 fund disbursement applications and standards and criteria
2 concerning the level of fund disbursement for each application. In
3 establishing such criteria and standards, the following purposes
4 shall be eligible for funding:

5 (a) Costs incurred or to be incurred by wireless carriers
6 to implement enhanced wireless 911 service pursuant to a service
7 agreement with a public safety answering point or pursuant to a
8 request for service from a public safety answering point. Such
9 costs shall include, but not be limited to, the portion of the
10 costs for new equipment used for providing enhanced wireless 911
11 service, costs to lease another vendor's equipment or services to
12 provide enhanced wireless 911 service, costs to create or maintain
13 any data base or data base elements used solely for enhanced
14 wireless 911 service, and other costs of establishing enhanced
15 wireless 911 service. The portion of the costs of equipment or
16 services used in the wireless carrier's main infrastructure
17 resulting in revenue to the wireless carrier is not eligible for
18 funding;

19 (b) Costs incurred or to be incurred by public safety
20 answering points to implement enhanced wireless 911 service,
21 including, but not limited to, purchases of new equipment, costs of
22 upgrades, modification and personnel training used solely to
23 process the data elements of enhanced wireless 911 service, and
24 maintenance costs and license fees for new equipment;

25 (c) Costs incurred or to be incurred by public safety
26 answering points for the purchase, installation, maintenance, and
27 operation of telecommunications equipment and telecommunications
28 services required for the provision of enhanced wireless 911

1 service; and

2 (d) Expenses incurred by members of the advisory board
3 while performing duties required by ~~sections 86-2201 to 86-2214~~ the
4 act.

5 (3) The commission shall have any powers necessary to
6 carry out the intent and purposes of ~~sections 86-2201 to 86-2214~~
7 the act.

8 Sec. 271. Section 86-2211, Revised Statutes Supplement,
9 2001, is amended to read:

10 ~~86-2211.~~ (1) A public safety answering point and
11 wireless carrier shall be compensated for costs determined by the
12 commission to be eligible for funding. A public safety answering
13 point or wireless carrier may apply for disbursement from the
14 Enhanced Wireless 911 Fund by submitting a written application to
15 the commission. The commission shall receive and review
16 applications, including supporting documentation. The commission
17 shall notify each applicant as to the commission's approval or
18 disapproval of the application.

19 (2) Each entity that receives disbursements from the fund
20 shall make a full accounting of the money in a manner and form
21 prescribed by the commission.

22 Sec. 272. Section 86-2212, Revised Statutes Supplement,
23 2001, is amended to read:

24 ~~86-2212.~~ Information provided by wireless carriers to
25 the advisory board or the commission pursuant to ~~sections 86-2201~~
26 ~~to 86-2214~~ the Enhanced Wireless 911 Services Act may be treated as
27 records which may be withheld from the public upon request of the
28 party submitting such records if the information qualifies under

1 subdivision (3) of section 84-712.05.

2 Sec. 273. Section 86-2213, Revised Statutes Supplement,
3 2001, is amended to read:

4 ~~86-2213.~~ The commission, governing bodies, and public
5 safety agencies may provide enhanced wireless 911 service. In
6 contracting for and providing such service, except for failure to
7 use reasonable care or for intentional acts, the commission, each
8 governing body, each public safety agency, each wireless carrier,
9 and their employees and agents shall be immune from liability or
10 the payment of damages in the performance of installing,
11 maintaining, or providing enhanced wireless 911 service.

12 Sec. 274. Section 86-2214, Revised Statutes Supplement,
13 2001, is amended to read:

14 ~~86-2214.~~ The commission, in consultation with the
15 advisory board, shall adopt and promulgate rules and regulations
16 necessary to carry out the provisions of sections 86-2201 to
17 86-2214 Enhanced Wireless 911 Services Act.

18 Sec. 275. Section 81-1190, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~81-1190.~~ Sections ~~81-1190 to 81-11,102~~ 275 to 304 of
21 this act shall be known and may be cited as the Information
22 Technology Infrastructure Act.

23 Sec. 276. Section 81-1191, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~81-1191.~~ For purposes of the Information Technology
26 Infrastructure Act, the definitions found in sections 277 to 285 of
27 this act apply. +

28 ~~(1) Commission means the Nebraska Information Technology~~

1 ~~Commission,~~

2 ~~(2) Department means the Department of Administrative~~
3 ~~Services,~~

4 ~~(3) Enterprise means the entirety of all departments,~~
5 ~~offices, boards, bureaus, commissions, or institutions in the state~~
6 ~~for which money is to be appropriated for communications or data~~
7 ~~processing services, equipment, or facilities, including all~~
8 ~~executive, legislative, and judicial departments, the Nebraska~~
9 ~~state colleges, the University of Nebraska, and all other state~~
10 ~~institutions and entities,~~

11 ~~(4) Enterprise project means an endeavor undertaken over~~
12 ~~a fixed period of time using information technology, which would~~
13 ~~have a significant effect on a core business function and affects~~
14 ~~multiple government programs, agencies, or institutions.~~
15 ~~Enterprise project includes all aspects of planning, design,~~
16 ~~implementation, project management, and training relating to the~~
17 ~~endeavor,~~

18 ~~(5) Fund means the Information Technology Infrastructure~~
19 ~~Fund,~~

20 ~~(6) Information technology means computing and~~
21 ~~telecommunications systems and their supporting infrastructure and~~
22 ~~interconnectivity used to acquire, transport, process, analyze,~~
23 ~~store, and disseminate information electronically,~~

24 ~~(7) Information technology infrastructure means the basic~~
25 ~~facilities, services, and installations needed for the functioning~~
26 ~~of information technology, and~~

27 ~~(8) Statewide technology plan means the plan developed by~~
28 ~~the Nebraska Information Technology Commission pursuant to section~~

1 ~~86-1506.~~

2 Sec. 277. Section 86-1504, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-1504. For purposes of sections 86-1501 to 86-1514.~~

5 ~~(1) Commission means the Nebraska Information Technology~~
6 ~~Commission.~~ ~~†~~

7 ~~(2) Information technology means computing and~~
8 ~~telecommunications systems, their supporting infrastructure, and~~
9 ~~interconnectivity used to acquire, transport, process, analyze,~~
10 ~~store, and disseminate information electronically, and~~

11 ~~(3) Technology information clearinghouse means a service~~
12 ~~to provide convenient access for the commission and general public~~
13 ~~to information about best technology practices, referrals for~~
14 ~~technical assistance, and other information related to the~~
15 ~~provisions of sections 86-1501 to 86-1514.~~

16 Sec. 278. Department means the Department of
17 Administrative Services.

18 Sec. 279. Enterprise means the entirety of all
19 departments, offices, boards, bureaus, commissions, or institutions
20 in the state for which money is to be appropriated for
21 communications or data processing services, equipment, or
22 facilities, including all executive, legislative, and judicial
23 departments, the Nebraska state colleges, the University of
24 Nebraska, and all other state institutions and entities.

25 Sec. 280. Enterprise project means an endeavor
26 undertaken over a fixed period of time using information
27 technology, which would have a significant effect on a core
28 business function and affects multiple government programs,

1 agencies, or institutions. Enterprise project includes all aspects
2 of planning, design, implementation, project management, and
3 training relating to the endeavor.

4 Sec. 281. Information technology means computing and
5 telecommunications systems and their supporting infrastructure and
6 interconnectivity used to acquire, transport, process, analyze,
7 store, and disseminate information electronically.

8 Sec. 282. Information technology clearinghouse means a
9 service to provide convenient access for the commission and general
10 public to information about best technology practices, referrals
11 for technical assistance, and other information related to the
12 Information Technology Infrastructure Act.

13 Sec. 283. Information technology infrastructure means
14 the basic facilities, services, and installations needed for the
15 functioning of information technology.

16 Sec. 284. Statewide technology plan means the plan
17 developed by the commission pursuant to section 290 of this act.

18 Sec. 285. Technical panel means the panel created in
19 section 295 of this act.

20 Sec. 286. Section 86-1501, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~86-1501.~~ Nebraskans, and others throughout the world,
23 have become part of the information age, in which information is a
24 primary element of economic, social, and cultural growth. ~~Our~~ The
25 ability to move information quickly and accurately through
26 electronic means is critical to the success of education, business,
27 agriculture, health care, government, libraries, communities, and
28 other areas of interest in a global society. A statewide vision

1 and strategy is needed to ensure coordinated development of the
2 telecommunications infrastructure necessary for Nebraska to keep
3 pace worldwide and collaboration among entities within the state
4 and with other states.

5 Sec. 287. Section 86-1502, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-1502.~~ (1) The Legislature finds that appropriations
8 for information technology continue to increase. Advances in
9 information technology have the potential to improve government
10 efficiency, broaden educational opportunities, and enhance services
11 to Nebraska communities and citizens. To assure the most
12 cost-effective use of state appropriations:

13 (a) Responsibility should be assigned for developing a
14 statewide vision and strategic plan to guide investments in
15 information technology;

16 (b) Organizational and technical support for technology
17 budget decisions should be improved and integrated;

18 (c) A clearinghouse should be formed for technical
19 support and best practices information; and

20 (d) Responsibility should be assigned to an office within
21 state government for improving the planning, budgeting, and
22 management of state government's information resources.

23 (2) It is the intent of the State of Nebraska to support
24 the development of a unified statewide telecommunications
25 infrastructure. The statewide telecommunications infrastructure
26 will be scalable, reliable, and efficient. It is further the
27 intent of the Legislature that the provisions of sections ~~86-1501~~
28 ~~to 86-1514~~ 286 to 298 of this act serve to coordinate the state's

1 investments in information technology in an efficient and
2 expeditious manner. The provisions are not intended to impede the
3 rapid deployment of appropriate technology or establish cumbersome
4 regulations or bureaucracy.

5 Sec. 288. Section 86-1503, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-1503.~~ (1) The Legislature finds that the University
8 of Nebraska, as the state's only public university, has unique
9 needs and requirements in the area of information technology
10 relating to the university's academic research mission.
11 Accordingly, the Legislature intends that sections ~~86-1501 to~~
12 ~~86-1514~~ 286 to 298 of this act shall not limit the authority of the
13 Board of Regents of the University of Nebraska to make decisions
14 about policies, purchases, and uses of information technology
15 related to its academic research mission. For purposes of this
16 section, academic research mission means those specific activities
17 or programs of the university which are undertaken as a part of
18 sponsored or grant-supported activities, organized research
19 projects, or other similar activities intended to produce one or
20 more research outcomes and conducted by employees of the university
21 or other entities, including, but not limited to, research
22 divisions, bureaus, institutes, and experimental stations.
23 Academic research mission does not include the administrative
24 activities of the university, instruction of students, or services
25 provided by the university to communities when not conducted in the
26 context of research outcomes.

27 (2) The Legislature finds that, as a separate branch of
28 government, the Legislature must perform its functions

1 independently of other branches. Accordingly, the Legislature
2 shall not be limited by the provisions and requirements of sections
3 ~~86-1501 to 86-1514~~ 286 to 298 of this act. However the Legislature
4 reserves the right to use the resources established by such
5 sections.

6 Sec. 289. Section 86-1505, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-1505.~~ (1) The Nebraska Information Technology
9 Commission is created. The commission shall consist of nine
10 members, including (a) one member representing elementary and
11 secondary education, (b) one member representing postsecondary
12 education, (c) the Governor or his or her designee, (d) one member
13 representing communities, and (e) five members representing the
14 general public who have experience in developing strategic plans
15 and making high-level business decisions.

16 (2) The Governor or a designee of the Governor shall
17 serve as chairperson of the commission.

18 (3) The members of the commission shall be appointed by
19 the Governor with the approval of a majority of the Legislature.
20 Members of the commission shall serve for terms of four years,
21 except that two members initially appointed to represent the
22 general public shall be appointed for a term of two years. Members
23 shall be limited to two consecutive terms. The Governor or his or
24 her designee shall serve on the commission for his or her term.
25 Each member shall serve until the appointment and qualification of
26 his or her successor. In case of a vacancy occurring prior to the
27 expiration of the term of a member, the appointment shall be made
28 only for the remainder of the term.

1 (4) Members shall be reimbursed for their actual and
2 necessary expenses as provided in sections 81-1174 to 81-1177.

3 (5) The commission may employ or designate an executive
4 director to provide administrative and operational support for the
5 commission. The Department of Administrative Services and Nebraska
6 Educational Telecommunications Commission shall assist with
7 administrative and operational support for the Nebraska Information
8 Technology Commission as necessary to carry out its duties.

9 Sec. 290. Section 86-1506, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~86-1506.~~ The commission shall:

12 (1) ~~By July 1, 1999, and each~~ Annually by July 1,
13 ~~thereafter,~~ adopt policies and procedures used to develop, review,
14 and annually update a statewide technology plan;

15 (2) Create a ~~technology~~ an information technology
16 clearinghouse to identify and share best practices and new
17 developments, as well as identify existing problems and
18 deficiencies;

19 (3) Review and adopt policies to provide incentives for
20 investments in information technology infrastructure services;

21 (4) Determine a broad strategy and objectives for
22 developing and sustaining information technology development in
23 Nebraska, including long-range funding strategies, research and
24 development investment, support and maintenance requirements, and
25 system usage and assessment guidelines;

26 (5) ~~By September 15, 1998, adopt~~ Adopt guidelines
27 regarding project planning and management, information sharing, and
28 administrative and technical review procedures involving

1 state-owned or state-supported technology and infrastructure.
2 Governmental entities, state agencies, and political subdivisions
3 shall submit projects which directly utilize state-appropriated
4 funds for information technology purposes to the process
5 established by sections ~~86-1501 to 86-1514~~ 286 to 298 of this act.
6 Governmental entities and political subdivisions may submit other
7 projects involving information technology to the commission for
8 comment, review, and recommendations;

9 (6) ~~By September 15, 1998, adopt~~ Adopt minimum technical
10 standards, guidelines, and architectures upon recommendation by the
11 technical panel; ~~created in section 86-1511,~~

12 (7) Establish ad hoc technical advisory groups to study
13 and make recommendations on specific topics, including work groups
14 to establish, coordinate, and prioritize needs for education, local
15 communities, and state agencies;

16 (8) By November 15 of each even-numbered year, make
17 recommendations on technology investments to the Governor and the
18 Legislature, including a prioritized list of projects, reviewed by
19 the technical panel, for which new or additional funding is
20 requested;

21 (9) Approve grants from the Community Technology Fund and
22 Government Technology Collaboration Fund;

23 (10) ~~By September 15, 1998, adopt~~ Adopt schedules and
24 procedures for reporting needs, priorities, and recommended
25 projects; and

26 (11) Provide assistance upon request to the Public Safety
27 Wireless Communication Advisory Board.

28 Sec. 291. Section 86-1507, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-1507.~~ The commission shall implement ~~the provisions~~
3 ~~of sections 86-1501 to 86-1514~~ 286 to 298 of this act in accordance
4 with the policy objectives described in sections ~~86-1501, 86-1502,~~
5 ~~and 86-1506~~ 286, 287, and 290 of this act and with the following
6 goals:

7 (1) Expanding access to lifelong educational and training
8 opportunities so that Nebraska's citizens and work force can
9 function in the emerging information society;

10 (2) Stimulating and supporting information-based economic
11 development that improves economic opportunity; and

12 (3) Expanding citizen access to government information.

13 Sec. 292. Section 86-1508, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~86-1508.~~ By November 15 of each even-numbered year, the
16 Nebraska Information Technology Commission shall submit a progress
17 report to the Governor and Legislature.

18 Sec. 293. Section 86-1509, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-1509.~~ The office of Chief Information Officer is
21 created. The Chief Information Officer shall be appointed by and
22 serve at the pleasure of the Governor with the approval of a
23 majority of the Legislature. For administrative purposes, the
24 office of Chief Information Officer shall be located in the
25 Department of Administrative Services.

26 Sec. 294. Section 86-1510, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-1510.~~ The Chief Information Officer shall:

1 (1) Maintain, in cooperation with the Department of
2 Administrative Services, an inventory of noneducation state
3 government technology assets, including hardware, applications, and
4 data bases;

5 (2) Recommend policies and guidelines for acceptable and
6 cost-effective use of information technology in noneducation state
7 government;

8 (3) Advise the Governor and Legislature on policy issues
9 affecting noneducation state government related to information
10 technology;

11 (4) Coordinate efforts among other noneducation state
12 government technology agencies and coordinating bodies;

13 (5) Implement a strategic, tactical, and project planning
14 process for noneducation state government information technology
15 that is linked to the budget process;

16 (6) Assist the budget division of the Department of
17 Administrative Services and Legislative Fiscal Analyst in
18 evaluating technology-related budget requests;

19 (7) Work with each governmental department and
20 noneducation state agency to evaluate and act upon opportunities to
21 more efficiently and effectively deliver government services
22 through the use of ~~informational~~ information technology;

23 (8) Recommend to the Governor and Legislature methods for
24 improving the organization and management of data by noneducation
25 agencies to achieve the goals of making information sharable and
26 reusable, eliminating redundancy of data and programs, improving
27 the quality and usefulness of data, and improving access to data,
28 and implement such recommendations as the Governor or Legislature

1 may direct;

2 (9) Monitor the status of major noneducation state
3 government technology projects;

4 (10) Administer such funds as may be appropriated to the
5 Chief Information Officer by the Legislature; and

6 (11) Complete other tasks as assigned by the Governor.

7 Sec. 295. Section 86-1511, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-1511.~~ (1) A technical panel is created. The
10 technical panel shall be comprised of one representative from the
11 Nebraska Educational Telecommunications Commission, one
12 representative from the Department of Administrative Services, one
13 representative from the University of Nebraska Computing Services
14 Network, one representative from the project sector, and such other
15 members as specified by the Nebraska Information Technology
16 Commission.

17 (2) The technical panel shall review any technology
18 project or request for additional funding recommended to the
19 Nebraska Information Technology Commission including any
20 recommendations by working groups established under sections
21 ~~86-1501 to 86-1514~~ 286 to 298 of this act. Upon the conclusion of
22 the review of a technology project or request for additional
23 funding, the technical panel shall provide its analysis to the
24 ~~Nebraska Information Technology Commission~~ commission. The
25 technical panel may recommend technical standards and guidelines to
26 be considered for adoption by the commission.

27 Sec. 296. Section 86-1512, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-1512.~~ The Community Technology Fund is created. The
2 fund shall be granted to public entities or for the public entity's
3 share of public-private partnerships by the commission. The fund
4 shall be used to provide incentives for collaborative community and
5 regional approaches toward more effective and efficient use of
6 technology to meet the needs of citizens, political subdivisions,
7 and other entities as determined by the commission. Expenditures
8 from the fund shall be approved by the commission only after review
9 by the technical panel. ~~created in section 86-1511.~~ The fund
10 shall be administered by the Department of Administrative Services.
11 Any money in the fund available for investment shall be invested by
12 the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 Sec. 297. Section 86-1513, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-1513.~~ The Government Technology Collaboration Fund is
17 created. The fund shall be granted by the commission. The fund
18 shall be used to provide incentives for collaborative technology
19 projects and programs by state agencies, boards, and commissions
20 and to assist in meeting the technology needs of small agencies as
21 determined by the commission. Expenditures from the fund shall be
22 approved by the commission only after review by the technical
23 panel. ~~created in section 86-1511.~~ The fund shall be administered
24 by the Department of Administrative Services. Any money in the
25 fund available for investment shall be invested by the state
26 investment officer pursuant to the Nebraska Capital Expansion Act
27 and the Nebraska State Funds Investment Act.

28 Sec. 298. Section 86-1514, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-1514.~~ (1) The Appropriations Committee and the
3 Transportation Committee of the Legislature shall jointly review
4 ~~the provisions of sections 86-1501 to 86-1513~~ 286 to 298 of this
5 act before January 1, 2001, and every two years thereafter. The
6 Executive Board of the Legislative Council shall designate staff
7 with appropriate technical experience to provide the staff support
8 for the review. The committees shall establish criteria to be used
9 for the review in accordance with the following policy objectives.
10 ~~within sixty days after April 3, 1998.~~ It shall be the policy of
11 the state to:

12 (a) Use information technology in education, communities,
13 including health care and economic development, and every level of
14 government service to improve economic opportunities and quality of
15 life for all Nebraskans regardless of location or income;

16 (b) Stimulate the demand to encourage and enable
17 long-term infrastructure innovation and improvement; and

18 (c) Organize technology planning in new ways to aggregate
19 demand, reduce costs, and create support networks; encourage
20 collaboration between communities of interest; and encourage
21 competition among technology and service providers.

22 (2) In the review, the committees shall determine the
23 extent to which:

24 (a) The vision has been realized and short-term and
25 long-term strategies have been articulated and employed;

26 (b) The statewide technology plan and other activities of
27 the commission have improved coordination and assisted
28 policymakers;

1 (c) A An information technology clearinghouse ~~of~~
2 ~~information~~ has been established, maintained, and utilized of
3 Nebraska's information technology infrastructure and of activities
4 taking place in the state involving information technology, and
5 ~~that~~ the information flow between and among individuals and
6 organizations has been facilitated as a result of the information
7 technology clearinghouse;

8 (d) Policies, standards, guidelines, and architectures
9 have been developed and observed;

10 (e) Recommendations made by the commission to the
11 Governor and Legislature have assisted policy and funding
12 decisions;

13 (f) Input and involvement of all interested parties has
14 been encouraged and facilitated; and

15 (g) Long-term infrastructure innovation, improvement, and
16 coordination has been planned for, facilitated, and achieved with
17 minimal barriers and impediments.

18 Sec. 299. Section 81-1192, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~81-1192. The~~ In addition to the findings in section 287
21 of this act, the Legislature also finds that:

22 (1) The effective, efficient, and cost-effective
23 operation of state government requires that information be
24 considered and managed as a strategic resource;

25 (2) Information technologies present numerous
26 opportunities to more effectively manage the information necessary
27 for state government operations;

28 (3) Information technologies are changing and advancing

1 at a very rapid rate, increasing the computing power available to
2 individual users;

3 (4) The commission should have the responsibility to
4 establish goals, guidelines, and priorities for information
5 technology infrastructure; and

6 (5) Periodic investments in the information technology
7 infrastructure are required to develop and maintain the foundation
8 for the effective use of information technologies throughout state
9 government.

10 Sec. 300. Section 81-1194, Revised Statutes Supplement,
11 2000, is amended to read:

12 ~~81-1194. It~~ To authorize enterprise projects and provide
13 funding, it is the intent of the Legislature that:

14 (1) A program be created with the goals of:

15 (a) Improving the efficiency of and reducing the cost of
16 state government and its various agencies;

17 (b) Improving the technical capabilities and productivity
18 of state employees and students, faculty, and administrators in
19 state educational institutions;

20 (c) Addressing enterprise-wide information technology
21 issues; and

22 (d) Clearly identifying and providing accountability for
23 the costs and benefits of information technology in state
24 government; and

25 (2) A fund be created to provide resources for periodic
26 investments in the information technology infrastructure.

27 Sec. 301. Section 81-1195, Revised Statutes Supplement,
28 2000, is amended to read:

1 ~~81-1195.~~ The Information Technology Infrastructure Fund
2 is hereby created. The fund shall contain revenue from the special
3 privilege tax as provided in section 77-2602, gifts, grants, and
4 such other money as is appropriated or transferred by the
5 Legislature. The fund shall be used to attain the goals listed in
6 section ~~81-1194~~ 300 of this act and the goals and priorities
7 identified in the statewide technology plan. The fund shall be
8 administered by the department. Expenditures shall be made from
9 the fund to finance the operations of the Information Technology
10 Infrastructure Act in accordance with the appropriations made by
11 the Legislature. Any money in the fund available for investment
12 shall be invested by the state investment officer pursuant to the
13 Nebraska Capital Expansion Act and the Nebraska State Funds
14 Investment Act.

15 Sec. 302. Section 81-1196.01, Revised Statutes
16 Supplement, 2000, is amended to read:

17 ~~81-1196.01.~~ (1) The Legislature may allocate money from
18 the ~~fund~~ Information Technology Infrastructure Fund for enterprise
19 projects. The Legislature may recognize multiple-year commitments
20 for large projects, subject to available appropriations, including
21 remaining obligations for the century date change project managed
22 by the department.

23 (2) No contract or expenditure for the implementation of
24 an enterprise project may be initiated unless the commission has
25 approved a project plan. The project plan shall include, but not
26 be limited to, the objectives, scope, and justification of the
27 project; detailed specifications and analyses that guide the
28 project from beginning to conclusion; technical requirements; and

1 project management. The commission may request clarification,
2 require changes, or provide conditional approval of a project plan.
3 In its review, the commission shall determine whether the
4 objectives, scope, timeframe, and budget of the project are
5 consistent with the proposal authorized by the Legislature in its
6 allocation from the fund.

7 (3) The commission may also evaluate whether the project
8 plan is consistent with the statewide technology plan and the
9 commission's technical standards and guidelines.

10 (4) Pursuant to section ~~86-1510~~ 294 of this act, the
11 Chief Information Officer shall report the status of enterprise
12 projects to the commission, Governor, and Legislature. In
13 addition, the Chief Information Officer shall provide the
14 Legislature a semiannual progress report for enterprise projects
15 funded through the fund.

16 Sec. 303. Section 81-1199, Revised Statutes Supplement,
17 2000, is amended to read:

18 ~~81-1199. The~~ To implement enterprise projects pursuant
19 to sections 299 to 304 of this act, the commission shall:

20 (1) Develop procedures and issue guidelines regarding the
21 review, approval, and monitoring of enterprise projects that
22 benefit from the ~~fund~~ Information Technology Infrastructure Fund;
23 and

24 (2) Monitor the status of projects implemented under the
25 Information Technology Infrastructure Act, including a complete
26 accounting of all project costs by fund source.

27 Sec. 304. Section 81-11,102, Revised Statutes
28 Supplement, 2000, is amended to read:

1 ~~81-11,102.~~ The commission shall report annually to the
2 Governor and the Appropriations Committee of the Legislature
3 concerning its activities pursuant to the Information Technology
4 Infrastructure Act.

5 Sec. 305. Section 81-2301, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~81-2301.~~ Sections ~~81-2301 to 81-2313~~ 305 to 323 of this
8 act shall be known and may be cited as the Intergovernmental Data
9 Communications Act.

10 Sec. 306. Section 81-2302, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~81-2302.~~ The Legislature finds and declares that:

13 (1) The collection, storage, and transfer of information
14 between the state and its agencies and political subdivisions is
15 essential to the efficient operation of state and local government;

16 (2) The collection, storage, and transfer of information
17 may be best achieved using advanced data processing and
18 communications capabilities;

19 (3) The potential for data transfer within the state is
20 underdeveloped due to a lack of overall planning, system design,
21 and input into program development, especially as that development
22 affects the transfer of information between state agencies and
23 between the state and its political subdivisions;

24 (4) Proper program design begins not with the
25 implementation of data processing activities but with the overall
26 design of data processing and communications systems, including a
27 measurement of the impact of program implementation upon all state
28 and local governmental offices; and

1 (5) The design of a statewide system for the collection,
2 storage, and transfer of data requires input from all affected or
3 potentially affected governmental agencies and political
4 subdivisions of the state.

5 Sec. 307. Section 81-2303, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~81-2303.~~ As used in For purposes of the
8 Intergovernmental Data Communications Act, unless the context
9 otherwise requires, the definitions found in sections 308 to 312 of
10 this act apply. +

11 ~~(1) Council shall mean the Intergovernmental Data~~
12 ~~Communications Advisory Council,~~

13 ~~(2) Local project shall mean an intergovernmental data~~
14 ~~communications project by which information can be exchanged~~
15 ~~electronically between governmental subdivisions,~~

16 ~~(3) Multijurisdictional data processing project shall~~
17 ~~mean a project identified by a state agency or governmental~~
18 ~~subdivision for development on data processing systems which gather~~
19 ~~data that can be used by other state agencies or governmental~~
20 ~~subdivisions to aid in carrying out their statutory or~~
21 ~~administrative duties, and~~

22 ~~(4) State project shall mean an intergovernmental data~~
23 ~~communications project by which information can be exchanged~~
24 ~~electronically between governmental subdivisions and state agencies~~
25 ~~and between state agencies.~~

26 Sec. 308. Council means the Intergovernmental Data
27 Communications Advisory Council.

28 Sec. 309. Intergovernmental data services program means

1 the program created in the Intergovernmental Data Services Program
2 Act.

3 Sec. 310. Local project means an intergovernmental data
4 communications project by which information can be exchanged
5 electronically between governmental subdivisions.

6 Sec. 311. Multijurisdictional data processing project
7 means a project identified by a state agency or governmental
8 subdivision for development on data processing systems which gather
9 data that can be used by other state agencies or governmental
10 subdivision to aid in carrying out their statutory or
11 administrative duties.

12 Sec. 312. State project means an intergovernmental data
13 communications project by which information can be exchanged
14 electronically between governmental subdivisions and state agencies
15 and between state agencies.

16 Sec. 313. Section 81-2304, Revised Statutes Supplement,
17 2000, is amended to read:

18 ~~81-2304.~~ There is hereby created the The
19 Intergovernmental Data Communications Advisory Council is created.
20 The council shall consist of thirteen members as follows:

21 (1) ~~One person shall be the~~ The administrator of the
22 intergovernmental data services program, who shall serve as the
23 chairperson of the council;

24 (2) ~~One person shall be a~~ A representative of the
25 information management services division of the Department of
26 Administrative Services;

27 (3) ~~One person shall be a~~ A representative of the
28 division of communications of the Department of Administrative

1 Services;

2 (4) One person ~~shall be~~ appointed by the Governor as a
3 representative of state government;

4 (5) One person ~~shall be~~ appointed by the Executive Board
5 of the Legislative Council as a representative of the Legislature;

6 (6) One person ~~shall be~~ appointed by the Chief Justice of
7 the Supreme Court as a representative of the court system;

8 (7) Two elected county officials ~~shall be~~ appointed by
9 the Governor as representatives of county government;

10 (8) Two elected city or village officials ~~shall be~~
11 appointed by the Governor as representatives of municipal
12 government;

13 (9) One person ~~shall be~~ appointed by the Governor as a
14 representative of the local data processing division of a political
15 subdivision;

16 (10) ~~One person shall be~~ a A representative of the
17 Department of Natural Resources data bank; and

18 (11) ~~One person shall be~~ a A representative of the
19 records management division of the Secretary of State's office.

20 Sec. 314. Section 81-2305, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~81-2305.~~ The term of office of the members of the
23 council ~~shall be~~ is two years. Vacancies on the council shall be
24 filled in the same manner as the initial appointments. The seat of
25 a council member who accumulates three consecutive absences from
26 the meetings of the council shall be considered vacant. The
27 appointments to the council shall be made ~~within thirty days~~
28 ~~following August 30, 1987, and successive appointments shall be~~

1 ~~made~~ no later than thirty days prior to the expiration date of the
2 term of office.

3 Sec. 315. Section 81-2306, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~81-2306.~~ The council shall elect a vice-chairperson who
6 shall serve for one year. The council shall meet at least four
7 times annually at the call of the chairperson or a majority of the
8 members of the council. All meetings shall be open to the public.

9 Sec. 316. Section 81-2307, Revised Statutes Supplement,
10 2000, is amended to read:

11 ~~81-2307.~~ The purposes of the council ~~shall be~~ are to:

12 (1) ~~assure~~ Assure the efficient collection, use, and
13 exchange of information between state agencies and between state
14 agencies and governmental subdivisions; τ

15 (2) ~~study~~ Study and make recommendations concerning the
16 data processing and communications needs of the state and its
17 political subdivisions; τ

18 (3) ~~make~~ Make recommendations of program design which
19 would enhance data transfer between state agencies and between the
20 state and its political subdivisions; τ

21 (4) ~~coordinate~~ Coordinate the implementation of data
22 processing applications involving multijurisdictional data
23 processing projects; τ and

24 (5) ~~serve~~ Serve in an advisory capacity to the
25 intergovernmental data services program. ~~of the information~~
26 ~~management services division of the Department of Administrative~~
27 ~~Services.~~

28 Sec. 317. Section 81-2308, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~§1-2308.~~ (1) The council shall:

3 (a) ~~(1)~~ Develop and publish one-year and five-year plans,
4 specifications, and recommendations for the data processing needs
5 of the state and for a network to provide for intergovernmental
6 transfer of data;

7 (b) Seek ~~(2)~~ ~~seek~~ to eliminate duplication of effort
8 through coordination of related projects;

9 (c) Promote ~~(3)~~ ~~promote~~ flexibility in the collection,
10 use, and exchange of information in anticipation of future needs of
11 the state and its political subdivisions;

12 (d) Identify ~~(4)~~ ~~identify~~ and recommend data processing
13 applications in anticipation of the future needs of state and local
14 governments;

15 (e) Promote ~~(5)~~ ~~promote~~ intergovernmental exchanges of
16 data and technical expertise;

17 (f) Report ~~(6)~~ ~~report~~ to, assist, and advise the Chief
18 Information Officer in setting information technology policy;

19 (g) Provide ~~(7)~~ ~~provide~~ assistance as requested by the
20 Nebraska Information Technology Commission to support the technical
21 panel created in section ~~§6-1511~~ 295 of this act; and

22 (h) Provide ~~(8)~~ ~~provide~~ assistance upon request to the
23 Public Safety Wireless Communication Advisory Board.

24 (2) The council may+ ~~(a)~~ ~~study~~ study and make
25 recommendations, including a cost-benefit analysis, concerning:

26 (a) State ~~state~~ projects which involve intergovernmental
27 transfer of information in an electronic medium or
28 multijurisdictional data processing projects; and

1 (b) study and make recommendations, including a
2 ~~cost-benefit analysis, concerning a~~ A local project only if the
3 request for assistance comes from the governmental subdivisions
4 involved in the project.

5 Sec. 318. Section 81-2308.01, Revised Statutes
6 Supplement, 2000, is amended to read:

7 ~~81-2308.01.~~ The council shall coordinate and integrate
8 its responsibilities and role with the responsibilities of the
9 intergovernmental data services program. ~~of the information~~
10 ~~management services division of the Department of Administrative~~
11 ~~Services.~~

12 Sec. 319. Section 81-2309, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~81-2309.~~ The council shall have the power to appoint
15 representatives of state agencies and governmental subdivisions
16 which are affected by a proposed project to serve as developmental
17 subcommittees of the council on the development of the proposed
18 project. Such subcommittees shall be temporary in nature and shall
19 serve to advise, design, and implement specific projects. A
20 subcommittee member shall serve only on proposed projects affecting
21 his or her agency or governmental subdivision and only for the
22 period of time from the inception of the project until it is
23 operational or deemed terminated by the council.

24 Sec. 320. Section 81-2310, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~81-2310.~~ Members of the council or subcommittees of the
27 council shall receive no compensation but may be reimbursed for
28 actual and necessary expenses incurred in the performance of their

1 duties as provided in sections 81-1174 to 81-1177. ~~for state~~
2 ~~employees.~~

3 Sec. 321. Section 81-2311, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~81-2311.~~ The council may study any state project which
6 appears to have a potential impact upon intergovernmental data
7 transfer. The council may make recommendations concerning the use
8 of data collected and stored in an electronic medium if such data
9 is deemed to have the potential for intergovernmental data transfer
10 and which it deems to have a positive cost-to-benefit relationship.
11 The council may study any local project only if the request for the
12 study originates from the governmental subdivisions involved in the
13 project.

14 Sec. 322. Section 81-2312, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~81-2312.~~ (1) Any state agency, political subdivision, or
17 officer or employee thereof, including a member of the council, who
18 has identified or is considering the development of a project which
19 may result in a more efficient use of collected, stored, or
20 communicated data in an electronic medium through intergovernmental
21 data transfer may submit an application to the council for the
22 purpose of requesting a study on the feasibility of the project.
23 Such application shall state the nature of information sought to be
24 exchanged and the state agencies or political subdivisions which
25 might make effective use of the data or which would be affected if
26 the project were undertaken.

27 (2) The council shall review each application and approve
28 or deny the proposed project for study. If the project is approved

1 for study, the council shall oversee the progress of the study as
2 it deems necessary.

3 (3) The completed study shall be presented to the
4 council. ~~The~~ and the council may ~~then~~ recommend (a) approval of
5 the project for implementation, ~~recommend~~ (b) additional study,
6 ~~recommend~~ (c) modification prior to implementation, ~~recommend~~ (d)
7 additional funding to expand any existing program if such expansion
8 would bring such program into compliance with the long-term
9 objectives set forth by the council, or ~~recommend~~ (e) termination
10 of the project.

11 Sec. 323. Section 81-2313, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~81-2313.~~ The council shall, at least annually, set forth
14 its recommendations to the Governor, the Legislature, and the
15 Supreme Court. The council shall distribute its recommendations,
16 at least annually, to state agencies and political subdivisions.

17 Sec. 324. Sections 324 to 342 of this act shall be known
18 and may be cited as the Intergovernmental Data Services Program
19 Act.

20 Sec. 325. Section 81-1120.35, Revised Statutes
21 Supplement, 2000, is amended to read:

22 ~~81-1120.35.~~ ~~There is hereby created the~~ The
23 intergovernmental data services program ~~which is created and~~ shall
24 be located within the information management services division of
25 the Department of Administrative Services.

26 Sec. 326. Section 81-1120.36, Revised Statutes
27 Supplement, 2000, is amended to read:

28 ~~81-1120.36.~~ For purposes of the Intergovernmental Data

1 Services Program Act, the definitions found in sections 327 to 335
2 of this act apply. sections 81-1120.35 to 81-1120.40.

3 ~~(1) Administrator shall mean the administrator of the~~
4 ~~intergovernmental data services program,~~

5 ~~(2) Application shall mean a computer program that~~
6 ~~provides a specific service to the user. The term shall include~~
7 ~~the applications specified in Laws 1989, LB 814, section 54, and~~
8 ~~all applications of statewide or intergovernmental benefit subject~~
9 ~~to the review set forth in subdivision (2) of section 81-1120.38,~~

10 ~~(3) Department shall mean the Department of~~
11 ~~Administrative Services,~~

12 ~~(4) Director shall mean the Director of Administrative~~
13 ~~Services,~~

14 ~~(5) Division shall mean the information management~~
15 ~~services division of the Department of Administrative Services,~~

16 ~~(6) Intergovernmental data services system shall mean the~~
17 ~~installation and use of applications on a computer network that~~
18 ~~allows for the intergovernmental transfer of data, automation of~~
19 ~~multijurisdictional functions, and integration of governmental~~
20 ~~entities that involve multiple locations separated by long~~
21 ~~distances. The term shall include computers that serve as~~
22 ~~platforms for statewide applications, cabling, other equipment~~
23 ~~essential to operating the computers, and operating programs that~~
24 ~~allow the computers to function. The term shall not include any~~
25 ~~applications,~~

26 ~~(7) Local application shall mean a computer program~~
27 ~~intended for use at the local government or state agency level, not~~
28 ~~of intergovernmental use, serving only limited local needs, and~~

1 ~~proposed to be resident on only a limited part of the system,~~

2 ~~(8) Peripheral device shall mean equipment that connects~~
3 ~~to the system to allow local use and access to applications on the~~
4 ~~system. Peripheral devices shall include, but not be limited to,~~
5 ~~microprocessors, word processors, desktop computers, terminals, and~~
6 ~~printers, and~~

7 ~~(9) System shall mean the intergovernmental data services~~
8 ~~system.~~

9 Sec. 327. Administrator means the administrator of the
10 intergovernmental data services program.

11 Sec. 328. Application means a computer program that
12 provides a specific service to the user. Application includes the
13 applications specified in Laws 1989, LB 814, section 54, and all
14 applications of statewide or intergovernmental benefit subject to
15 the review set forth in subdivision (2)(a) of section 337 of this
16 act.

17 Sec. 329. Department means the Department of
18 Administrative Services.

19 Sec. 330. Director means the Director of Administrative
20 Services.

21 Sec. 331. Division means the information management
22 services division of the department.

23 Sec. 332. Intergovernmental data services system means
24 the installation and use of applications on a computer network that
25 allows for the intergovernmental transfer of data, automation of
26 multijurisdictional functions, and integration of governmental
27 entities that involve multiple locations separated by long
28 distances. Intergovernmental data services system includes

1 computers that serve as platforms for statewide applications,
2 cabling, other equipment essential to operating the computers, and
3 operating programs that allow the computers to function.
4 Intergovernmental data services system does not include any
5 applications.

6 Sec. 333. Local application means a computer program
7 intended for use at the local government or state agency level, not
8 of intergovernmental use, serving only limited local needs, and
9 proposed to be resident on only a limited part of the system.

10 Sec. 334. Peripheral device means equipment that
11 connects to the system to allow local use and access to
12 applications on the system. Peripheral device includes, but is not
13 limited to, microprocessors, word processors, desktop computers,
14 terminals, and printers.

15 Sec. 335. System means the intergovernmental data
16 services system.

17 Sec. 336. Section 81-1120.37, Revised Statutes
18 Supplement, 2000, is amended to read:

19 ~~81-1120.37.~~ The purpose of the system is to allow for
20 the efficient operation of state government and its political
21 subdivisions. In managing and allocating resources on the system,
22 the administrator shall assign first priority to providing capacity
23 for statewide applications that are essential to carrying out the
24 duties of state agencies in an efficient and effective manner. The
25 system may also serve local data processing needs of political
26 subdivisions, provide citizens with a point of access to
27 governmental services and information, and serve other state and
28 local needs, subject to available resources.

1 Sec. 337. Section 81-1120.38, Revised Statutes
2 Supplement, 2000, is amended to read:

3 ~~81-1120.38.~~ In establishing and maintaining the system:
4 ~~, the division shall exercise the following duties and powers:~~

5 (1) The division:

6 (a) Shall ~~shall~~ provide the computer network and services
7 for the system with assistance from the division of communications
8 of the ~~Department of Administrative Services~~ department;

9 (b) Shall, within available resources, assist the
10 Intergovernmental Data Communications Advisory Council, the
11 Geographic Information System Steering Committee, and other local,
12 state, and federal collaborative efforts to encourage coordination
13 of information systems and data sharing;

14 (c) Shall coordinate its activities and responsibilities
15 with the functions of the division of communications of the
16 department to minimize overlap and duplication of technical
17 services between the divisions in supporting the system, its
18 applications, and application development; and

19 (d) May undertake and coordinate planning studies to
20 determine the feasibility, benefits, costs, requirements, and
21 options for the intergovernmental transfer of data;

22 (2) The administrator:

23 (a) Shall ~~shall~~ approve and coordinate the design,
24 development, installation, training, and maintenance of
25 applications by state agencies for use on the system. Any agency
26 proposing to add an application to the system shall submit an
27 evaluation to the administrator that ~~(a)~~ examines the
28 cost-effectiveness, technical feasibility, and potential use of the

1 proposed application; that ~~and (b)~~ identifies the total costs of the
2 application, including design, development, testing, installation,
3 operation, and any changes to the computer network that are
4 necessary for its operation; ~~and (c)~~ and that provides a schedule
5 that shows the estimated completion dates for design, development,
6 testing, installation, training, and full operational status. The
7 administrator shall not approve an application by a state agency
8 for use on the system unless his or her review shows that the
9 application is cost effective and technically feasible, that
10 funding is available, and that the proposed schedule is reasonable
11 and feasible;

12 ~~(3) The administrator shall~~ (b) Shall approve changes in
13 the design of applications by state agencies for use on the system.
14 The administrator may require such information from the agency as
15 necessary to determine that the proposed change in design is cost
16 effective and technically feasible, that funding is available, and
17 that the proposed schedule for implementation is reasonable and
18 feasible;

19 ~~(4) The administrator~~ (c) May, with the approval of the
20 director, ~~may~~ contract with other governmental entities or private
21 vendors in carrying out the duties relating to the
22 intergovernmental data services program;

23 ~~(5) The administrator~~ (d) Shall, in cooperation with the
24 division of communications of the ~~Department of Administrative~~
25 ~~Services department~~, ~~shall~~ establish a rate schedule that reflects
26 the rates adopted by the division of communications and the
27 information management services division, plus any additional costs
28 of the system. Such fees may reflect a base cost for access to the

1 system, costs for actual usage of the system, costs for special
2 equipment or services, or a combination of these factors. The
3 administrator may charge for the costs of changes to the system
4 that are requested by or are necessary to accommodate a request by
5 a user. All fees shall be set to recover all costs of operation;

6 ~~(6) The administrator shall submit as part of the~~
7 ~~biennial budget request of the department a listing of all~~
8 ~~applications submitted for consideration, cost estimates for~~
9 ~~development, testing, and full operation of each application, a~~
10 ~~recommended priority listing of the applications for which an~~
11 ~~evaluation is completed, and funding recommendations by application~~
12 ~~contained within the budget request for the division. All~~
13 ~~application estimates and requests shall be scheduled over ensuing~~
14 ~~fiscal years such that annual projected costs and completion of~~
15 ~~application phases to the point of fully operational status can be~~
16 ~~clearly determined. Local applications shall not be subject to the~~
17 ~~provisions of this subdivision,~~

18 ~~(7) Ownership of the system, applications, and peripheral~~
19 ~~devices purchased or developed by the expenditure of state funds~~
20 ~~shall be vested with the state, and the responsibility for its~~
21 ~~proper operation shall be vested with the director and~~
22 ~~administrator,~~

23 ~~(8) The administrator~~ (e) May, with the approval of the
24 director, ~~may~~ enter into agreements with other state and local
25 governments, the federal government, or private-sector entities for
26 the purpose of sale, lease, or licensing for third-party resale of
27 applications and system design. Proceeds from such agreements
28 shall be deposited to the Data Systems Cash Fund; ~~which fund is~~

1 hereby created. Any money in the fund available for investment
2 shall be invested by the state investment officer pursuant to the
3 Nebraska Capital Expansion Act and the Nebraska State Funds
4 Investment Act. The fund may be expended for application-related
5 purposes for which the Legislature makes a specific appropriation.
6 The fund may be used to subsidize the cost of operating existing
7 applications, for lowering rates charged to participating state
8 agencies and counties, or for the purpose of new application
9 development,

10 ~~(9)~~ The budget division of the Department of
11 Administrative Services shall administratively create such cash and
12 revolving funds as may be required to properly account for the
13 receipt of charges for use of applications and the payment of
14 expenses for operation of the system. It is the intent of the
15 Legislature that operations of the system shall be fully financed
16 by user charges with the exception of development costs for new
17 applications and initial costs of operation as applications
18 progress to full operating status and are unable to generate
19 sufficient fee revenue to finance operating costs,

20 ~~(10)~~ (f) Shall determine whether a local application
21 shall be a component of the system. No local application shall be
22 resident or operational in any component of the system without
23 explicit authorization of the administrator;

24 ~~(11)~~ All development costs for approved new applications
25 shall be budgeted and appropriated to the division or to
26 participating state agencies at the discretion of the Legislature.
27 Agencies may independently request appropriations for such
28 application development, however such requests shall be subject to

1 the review and prioritization set forth in subdivision (2) of this
2 section, and at such time as the application becomes an authorized
3 application and funded by the Legislature, the cost of such
4 development shall be appropriated to the division or to
5 participating state agencies. To the extent possible, if agency
6 cash or revolving funds or federal funds may be used for
7 application development, such funds may be transferred to the
8 division and expended for application development in order to
9 properly account for all costs associated with application
10 development,

11 ~~(12)~~ The administrator shall (g) Shall approve or
12 disapprove the attachment of any peripheral device to the system
13 and may prescribe standards and specifications that such devices
14 must meet; and

15 ~~(13)~~ The administrator shall adopt and promulgate such
16 rules, regulations, guidelines, and procedures to carry out this
17 section,

18 ~~(14)~~ All communications and telecommunications services
19 for the program and the system shall be secured from the division
20 of communications of the Department of Administrative Services,

21 ~~(15)~~ The information management services division, within
22 available resources, shall assist the Intergovernmental Data
23 Communications Advisory Council, the Geographic Information System
24 Steering Committee, and other local, state, and federal
25 collaborative efforts to encourage coordination of information
26 systems and data sharing,

27 ~~(16)~~ The division may undertake and coordinate planning
28 studies to determine the feasibility, benefits, costs,

1 ~~requirements, and options for the intergovernmental transfer of~~
2 ~~data,~~

3 ~~(17) The administrator shall~~ (h) Shall provide assistance
4 as requested by the Nebraska Information Technology Commission to
5 support the technical panel created in section ~~86-1511~~ 295 of this
6 act; and

7 ~~(18) Activities and responsibilities of the division~~
8 ~~shall be coordinated with the functions of the division of~~
9 ~~communications. Overlap and duplication of technical services~~
10 ~~between the divisions in supporting the system, its applications,~~
11 ~~and application development shall be minimized.~~

12 (3) The director and administrator shall be responsible
13 for the proper operation of the system, applications, and
14 peripheral devices purchased or developed by the expenditure of
15 state funds. The ownership of such system, applications, and
16 peripheral devices shall be vested with the state; and

17 (4) All communications and telecommunications services
18 for the intergovernmental data services program and the system
19 shall be secured from the division of communications of the
20 department.

21 Sec. 338. (1) The administrator shall submit as part of
22 the biennial budget request of the department a listing of all
23 applications submitted for consideration, cost estimates for
24 development, testing, and full operation of each application, a
25 recommended priority listing of the applications for which an
26 evaluation is completed, and funding recommendations by application
27 contained within the budget request for the division. All
28 application estimates and requests shall be scheduled over ensuing

1 fiscal years such that annual projected costs and completion of
2 application phases to the point of fully operational status can be
3 clearly determined. Local applications shall not be subject to the
4 provisions of this subsection.

5 (2) All development costs for approved new applications
6 shall be budgeted and appropriated to the division or to
7 participating state agencies at the discretion of the Legislature.
8 Agencies may independently request appropriations for such
9 application development, however such requests shall be subject to
10 the review and prioritization set forth in subdivision (2)(a) of
11 section 337 of this act, and at such time as the application
12 becomes an authorized application and funded by the Legislature,
13 the cost of such development shall be appropriated to the division
14 or to participating state agencies. To the extent possible, if
15 agency cash or revolving funds or federal funds may be used for
16 application development, such funds may be transferred to the
17 division and expended for application development in order to
18 properly account for all costs associated with application
19 development.

20 Sec. 339. The administrator may adopt and promulgate
21 rules, regulations, guidelines, and procedures to carry out
22 sections 337 and 338 of this act.

23 Sec. 340. The Data Systems Cash Fund is created. The
24 fund shall include money remitted from section 337 of this act.
25 The fund may be expended for application-related purposes for which
26 the Legislature makes a specific appropriation. The fund may be
27 used to subsidize the cost of operating existing applications, for
28 lowering rates charged to participating state agencies and

1 counties, or for the purpose of new application development. Any
2 money in the fund available for investment shall be invested by the
3 state investment officer pursuant to the Nebraska Capital Expansion
4 Act and the Nebraska State Funds Investment Act.

5 Sec. 341. Section 81-1120.40, Revised Statutes
6 Supplement, 2000, is amended to read:

7 ~~81-1120.40.~~ There is hereby created the The
8 Intergovernmental Data Services Program Revolving Fund is created.
9 The fund shall be administered by the division. The fund shall
10 consist of fees paid for services provided to state agencies,
11 political subdivisions, or other governmental or private entities
12 by the division and shall be used to pay for expenses incurred by
13 the division. Any money in the fund available for investment shall
14 be invested by the state investment officer pursuant to the
15 Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act.

17 Sec. 342. The budget division of the department shall
18 administratively create such cash and revolving funds as may be
19 required to properly account for the receipt of charges for use of
20 applications and the payment of expenses for operation of the
21 system. It is the intent of the Legislature that operations of the
22 system shall be fully financed by user charges with the exception
23 of development costs for new applications and initial costs of
24 operation as applications progress to full operating status and are
25 unable to generate sufficient fee revenue to finance operating
26 costs.

27 Sec. 343. Section 81-2601, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~81-2601.~~ (1) The Legislature finds that the Geographic
2 Information System is a computer-based technology that captures,
3 stores, analyzes, and displays information about the earth's
4 surface from a geographically referenced system, that an interest
5 in the system is rapidly increasing at all levels of government,
6 and that an institutional mechanism is needed to encourage
7 initiatives, coordinate efforts, avoid duplication, seek
8 efficiencies, develop guidelines, policies, and standards for
9 operations and management, promote education and training, and make
10 recommendations so that such technology will benefit the entire
11 state and endure as an analysis tool for decisionmakers.

12 (2) The Intergovernmental Data Communications Advisory
13 Council has found that there are many levels of experience,
14 expertise, and hardware and software sophistication among the
15 various levels of government and that guidelines, policies,
16 coordination, and standards are required to realize the maximum
17 benefits of this technology, avoid data quality problems, and
18 resolve conflicts at a reasonable cost for the state.

19 (3) It is the intent of the Legislature that a Geographic
20 Information System Steering Committee be created with statewide
21 responsibilities to take an active role in implementing the
22 Geographic Information System. Such committee would help
23 facilitate acquisition of such technology at all levels of
24 government and make recommendations to the Legislature for program
25 initiatives and funding and the fostering of communication,
26 training, and education.

27 Sec. 344. Section 81-2602, Revised Statutes Supplement,
28 2000, is amended to read:

1 ~~81-2602-~~ (1) The Geographic Information System Steering
2 Committee is hereby created and shall consist of nineteen members
3 as follows:

4 ~~(1)~~ (a) The director or designee of the Department of
5 Administrative Services, the Department of Environmental Quality,
6 the Department of Health and Human Services Regulation and
7 Licensure, the Conservation and Survey Division of the University
8 of Nebraska, the Department of Natural Resources, and the
9 Governor's Policy Research Office;

10 ~~(2)~~ (b) The Director-State Engineer or designee;

11 ~~(3)~~ (c) The State Surveyor or designee;

12 ~~(4)~~ (d) The Clerk of the Legislature or designee;

13 ~~(5)~~ (e) The secretary of the Game and Parks Commission or
14 designee;

15 ~~(6)~~ (f) The Property Tax Administrator or designee;

16 ~~(7)~~ (g) One representative of federal agencies appointed
17 by the Governor;

18 ~~(8)~~ (h) One representative of the natural resources
19 districts nominated by the Nebraska Association of Resources
20 Districts and appointed by the Governor;

21 ~~(9)~~ (i) One representative of the public power districts
22 appointed by the Governor;

23 ~~(10)~~ (j) Two representatives of the counties nominated by
24 the Nebraska Association of County Officials and appointed by the
25 Governor;

26 ~~(11)~~ (k) One representative of the municipalities
27 nominated by the League of Nebraska Municipalities and appointed by
28 the Governor; and

1 ~~(12)~~ (1) Two members at large appointed by the Governor.

2 (2) The appointed members shall serve for terms of four
3 years, except that of the initial members appointed by the
4 Governor, one of the representatives of the counties shall be
5 appointed for one year and the other shall be appointed for three
6 years, one of the members at large shall be appointed for one year
7 and the other for three years, and the representative of the public
8 power districts shall be appointed for two years. Their successors
9 shall be appointed for four-year terms. Any vacancy on the
10 committee shall be filled in the same manner as the original
11 appointment, and the person selected to fill such vacancy shall
12 have the same qualifications as the member whose vacancy is being
13 filled.

14 (3) The members shall be reimbursed for their actual and
15 necessary expenses as provided in sections 81-1174 to 81-1177.

16 Sec. 345. Section 81-2603, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~81-2603.~~ (1) The Geographic Information System Steering
19 Committee shall elect a chairperson from its members and such other
20 officers as the committee deems necessary.

21 (2) As the need arises, advisory committees may be
22 established by the committee from various levels of government,
23 industry, or the general public to assist the committee. The
24 members of advisory committees shall be reimbursed for their actual
25 and necessary expenses as provided in sections 81-1174 to 81-1177.

26 (3) The committee shall meet quarterly or upon the call
27 of the chairperson.

28 Sec. 346. Section 81-2604, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~§1-2604.~~ The Geographic Information System Steering
3 Committee shall:

4 (1) Make recommendations to the Legislature for program
5 initiatives and funding;

6 (2) Establish guidelines and policies for statewide
7 Geographic Information System operations and management to include:

8 (a) The acquisition, development, maintenance, quality
9 assurance such as quality control standards, access, ownership,
10 cost recovery, and priorities of data bases;

11 (b) The compatibility, acquisition, and communications of
12 hardware and software;

13 (c) The assessment of needs, identification of scope,
14 setting of standards, and determination of an appropriate
15 enforcement mechanism;

16 (d) The fostering of training programs and promoting
17 education and information about the Geographic Information System;
18 and

19 (e) The promoting of the Geographic Information System
20 development in the State of Nebraska and providing or coordinating
21 additional support to address Geographic Information System issues
22 as such issues arise;

23 (3) Report to, assist, and advise the Chief Information
24 Officer in setting information technology policy;

25 (4) Provide assistance as requested by the Nebraska
26 Information Technology Commission to support the technical panel
27 created in section ~~§6-1511~~ 295 of this act; and

28 (5) Provide assistance upon request to the Public Safety

1 Wireless Communication Advisory Board.

2 Sec. 347. Section 81-2605, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~81-2605.~~ Annually, the chairperson of the Geographic
5 Information System Steering Committee shall submit a written
6 report, approved by the committee, to the Governor and the Clerk of
7 the Legislature and shall send a copy of such report to the
8 Intergovernmental Data Communications Advisory Council.

9 Sec. 348. Section 86-2301, Revised Statutes Supplement,
10 2001, is amended to read:

11 ~~86-2301.~~ For purposes of sections ~~86-2301 to 86-2307~~ 348
12 to 352 of this act, dark fiber means any unused fiber optic cable
13 through which no light is transmitted or any installed fiber optic
14 cable not carrying a signal.

15 Sec. 349. Section 86-2302, Revised Statutes Supplement,
16 2001, is amended to read:

17 ~~86-2302.~~ (1) Any agency or political subdivision of the
18 state may:

19 (a) Own dark fiber;

20 (b) Sell dark fiber pursuant to section ~~86-2303~~ 350 of
21 this act; and

22 (c) Lease dark fiber pursuant to section ~~86-2304~~ 351 of
23 this act.

24 (2) No agency or political subdivision of the state shall
25 provide telecommunications services for a fee, except as authorized
26 in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,
27 and 85-1501 to 85-1542, or be issued a certificate of convenience
28 and necessity as a telecommunications common carrier or a permit as

1 a telecommunications contract carrier. Any agency or political
2 subdivision which sells or leases its dark fiber pursuant to
3 sections ~~86-2301 to 86-2307~~ 348 to 352 of this act shall not be
4 deemed to be providing telecommunications services for a fee.

5 Sec. 350. Section 86-2303, Revised Statutes Supplement,
6 2001, is amended to read:

7 ~~86-2303.~~ Any agency or political subdivision of the
8 state may sell its dark fiber by any method, including auction,
9 sealed bid, or public sale, which it deems to be most advantageous
10 to the public. The sales agreement may require that the agency or
11 political subdivision be solely responsible for the maintenance of
12 the dark fiber and that the buyer is responsible, on a pro rata
13 basis, for any such maintenance costs.

14 Sec. 351. Section 86-2304, Revised Statutes Supplement,
15 2001, is amended to read:

16 ~~86-2304.~~ Any agency or political subdivision of the
17 state may lease its dark fiber if:

18 (1) The lessee is a certificated telecommunications
19 common carrier or a permitted telecommunications contract carrier
20 pursuant to section ~~75-604~~ 27 of this act or an Internet service
21 provider;

22 (2) The lease price and profit distribution is approved
23 by the Public Service Commission as follows:

24 (a) The commission shall not approve any lease price
25 which is less than the market rate for leasing such fiber as
26 determined by the commission. The market rate is the price
27 associated with similar unbundled network elements that may be
28 available from the incumbent local exchange carrier or the price of

1 any other private entity leasing dark fiber optic facilities
2 serving the same or similar territory where the leased equipment is
3 located. Before entering into a lease, each agency or political
4 subdivision shall file a request with the commission for a
5 competitive price comparison to determine the market rate. When
6 conducting a competitive price comparison, the commission in its
7 discretion shall use rate schedules, interconnection agreements, or
8 other documents within its regulatory oversight and shall gather
9 other market rate information as deemed necessary;

10 (b) The commission shall not approve any lease price
11 which is agreed upon by the agency or political subdivision and the
12 lessee unless the lease requires that the agency or political
13 subdivision be solely responsible for the maintenance of its dark
14 fiber and that the lessee be responsible, on a pro rata basis, for
15 any such maintenance costs; and

16 (c) The commission shall not approve any lease unless
17 fifty percent of the profit earned by the agency or political
18 subdivision under the lease is remitted to the Nebraska Internet
19 Enhancement Fund. Profit earned by the agency or political
20 subdivision is the lease price less the cost of infrastructure
21 overbuilding. Before entering into a lease, each agency or
22 political subdivision shall file a request with the commission to
23 determine the cost of overbuilding its fiber optic infrastructure.
24 For purposes of this subdivision, cost of infrastructure
25 overbuilding means the cost of each leased optic fiber, including
26 the cost, on a pro rata basis, associated with the agency's or
27 political subdivision's installation of such fiber;

28 (3) Any interconnection agreement subject to ~~subsection~~

1 ~~(2) of section 75-109~~ section 23 of this act is approved by the
2 commission; and

3 (4) The lessee makes every reasonable effort to activate
4 the maximum amount of the leased fiber as is possible, within one
5 year after entering into the lease, unless good cause is shown.

6 Sec. 352. Section 86-2305, Revised Statutes Supplement,
7 2001, is amended to read:

8 ~~86-2305.~~ An original action or appeal concerning a
9 violation of any provision of sections ~~86-2301 to 86-2307~~ 348 to
10 352 of this act by an agency or political subdivision of the state
11 shall follow the procedures set forth in section 75-132.01.

12 Sec. 353. Section 86-2306, Revised Statutes Supplement,
13 2001, is amended to read:

14 ~~86-2306.~~ The Nebraska Internet Enhancement Fund is
15 created. The fund shall be used to provide financial assistance to
16 install and deliver broadband or other advanced telecommunications
17 infrastructure and service throughout the state. It is the intent
18 of the Legislature that two hundred fifty thousand dollars shall be
19 appropriated to the fund to be used for startup costs and seed
20 money for FY2001-02. The Public Service Commission may receive
21 gifts, contributions, property, and equipment from public and
22 private sources for purposes of the fund. The fund shall consist of
23 money appropriated by the Legislature and gifts, grants, or
24 bequests from any source, including money remitted to the fund
25 pursuant to section 351 of this act and any other federal, state,
26 public, and private sources. Money in the fund shall be
27 distributed by the commission pursuant to section ~~86-2307~~ 354 of
28 this act. Any money in the fund available for investment shall be

1 invested by the state investment officer pursuant to the Nebraska
2 Capital Expansion Act and the Nebraska State Funds Investment Act.

3 Sec. 354. Section 86-2307, Revised Statutes Supplement,
4 2001, is amended to read:

5 ~~86-2307.~~ (1) The Public Service Commission shall
6 establish an application process through which any county or
7 municipality in the state may apply for financial assistance from
8 the Nebraska Internet Enhancement Fund. The process shall allow
9 the county or municipality to obtain a service provider for
10 broadband or other advanced telecommunications services in an
11 exchange or other area defined by the county or municipality where
12 such telecommunications services are to be delivered at rates of
13 service agreed upon between the service provider and county or
14 municipality. The application shall state the projected cost,
15 identify the service provider, describe the process for selection
16 of the service provider, list terms and considerations of any
17 agreement between the applicant and the service provider, and
18 include other information as required by the commission.

19 (2) The commission shall not provide assistance unless
20 (a) the service provider is an eligible service provider of
21 telecommunications, video, Internet, or other related services as
22 determined by rule and regulation of the commission and (b) the
23 applicant can provide matching funds of at least twenty-five
24 percent of the total projected cost.

25 (3) The commission shall establish a system to prioritize
26 applications. Highest priority shall be given to applicants based
27 on high-cost factors, including population scarcity and location
28 remoteness. Other factors, including financial need, may be

1 considered by the commission as deemed necessary.

2 (4) Funds for financial assistance to counties and
3 municipalities may be distributed by the commission on and after
4 January 1, 2002. Funds committed for future use are deemed to be
5 used in the year committed.

6 Sec. 355. Section 86-401, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-401.~~ The counties of this state may establish public
9 telephone systems within the respective counties according to ~~the~~
10 ~~provisions of sections 86-401 to 86-412~~ 355 to 366 of this act.

11 Sec. 356. Section 86-402, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-402.~~ For the purpose of establishing a county
14 telephone system pursuant to sections ~~86-401 to 86-412~~ 355 to 366
15 of this act, the county board ~~is empowered and authorized to cause~~
16 may levy a tax of not more than one and four-tenths cents on each
17 one hundred dollars upon the taxable value of all the taxable
18 property in such county to be levied and collected ~~for the purpose~~
19 ~~of establishing or assisting in establishing a public telephone~~
20 ~~system for any county within this state~~ subject to section 77-3443.
21 The county board shall submit the question of such levy to the
22 electors at a general or special election when a petition is filed
23 with the clerk of the board signed by at least ten percent of the
24 electors of the county. If such proposal submitted at such
25 election is carried by a majority of all the votes cast at the
26 election, the board shall make the levy set forth in this section.

27 Sec. 357. Section 86-403, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-403.~~ When (1) If the amount of revenue which produced
2 in any one year from a tax under section ~~86-402~~ would produce in
3 ~~any one year~~ 356 of this act is insufficient to establish a public
4 telephone system, the county board ~~of any county~~ shall, upon
5 petition of ten percent of the electors of the county, ~~praying~~
6 ~~therefor,~~ issue ~~the~~ bonds of the county to an amount not to exceed
7 one-half of one percent of the taxable valuation of the county,
8 bearing not to exceed six percent interest and payable in not to
9 exceed twenty years. Bonds issued under this section shall have ~~r~~
10 ~~but with~~ an option on the part of the county that ~~same~~ the bonds
11 may be paid at any time within five years from the date of
12 issuance.

13 (2) Before the bonds are issued, the question of ~~issuing~~
14 ~~the same~~ issuance shall be submitted to a vote of the electors of
15 the county at a general or special election and shall be authorized
16 by a majority vote. ~~of the electors voting at such election.~~ Such
17 bond issue ~~and all matters concerned therewith~~ shall be governed,
18 ~~in all respects,~~ except when in conflict with this section, by the
19 provisions of law for the issuance of bonds by counties for the
20 purpose of internal improvement and when so issued shall be deemed
21 ~~regular and valid.~~ in all respects. When such bonds are ~~so~~
22 issued, the boards shall provide for the levy and collection of a
23 tax annually, sufficient to pay the any interest ~~thereon,~~ and for a
24 ~~tax~~ and to provide a sinking fund for the payment of the bonds as
25 they mature.

26 Sec. 358. Section 86-404, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-404.~~ The county board shall provide by resolution for

1 the establishment of ~~such a county~~ telephone system. All contracts
2 for the construction of ~~the same,~~ such telephone system or any part
3 ~~thereof,~~ of such system shall be by competitive bid, ~~and~~ upon
4 twenty days' notice by publication in ~~some~~ a newspaper of general
5 circulation published in ~~said~~ the county. The county board ~~+~~
6 ~~PROVIDED,~~ ~~said boards~~ may reject any ~~and all bids~~ bid and cause the
7 work of construction to be performed under ~~their~~ its supervision.

8 Sec. 359. Section 86-405, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~86-405.~~ The county board shall ~~further~~ provide for the
11 proper organization, regulation, maintenance, and extension of ~~such~~
12 the county telephone system. As needed and subject to section
13 77-3443, the county board may ~~and shall be authorized,~~ if
14 ~~necessary,~~ to levy a tax of not to exceed seven-tenths of one cent
15 on each one hundred dollars upon the taxable property of the county
16 for the purpose of maintaining and extending the ~~same~~ subject to
17 ~~section 77-3443~~ county telephone system.

18 Sec. 360. Section 86-406, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-406.~~ (1) Under the direction of the county board, the
21 control and operation of the county telephone system is the
22 responsibility of the telephone chief. The county board shall
23 ~~further provide for the employment of~~ employ a telephone chief.
24 The employment contract of the telephone chief shall not ~~+~~ who
25 ~~shall be hired by contract with the county board for a term of not~~
26 ~~to~~ exceed a term of five years. ~~He~~ The telephone chief shall give
27 bond to the county in the penal sum of at least five thousand
28 dollars, and not more than twice the value of the ~~said~~ telephone

1 system, as ~~may be~~ determined by the said county board. The ~~which~~
2 bond shall be approved by said the county board, shall be ~~and~~ filed
3 before ~~such~~ the employment contract is consummated, and shall be
4 conditioned ~~for~~ upon the faithful performance of all duties, and
5 the proper accounting and payment of all money. ~~To the telephone~~
6 ~~chief shall be committed,~~ under the direction of the county board,
7 ~~the full control and operation of the telephone system.~~

8 (2) The county board may, upon recommendation of the
9 telephone chief, employ such assistants as ~~may be~~ required. The
10 county board shall determine ~~the number and compensation of any~~
11 assistants.

12 (3) ~~thereof to be determined by the county board.~~ The
13 telephone chief and such assistants shall be paid, by the county ~~by~~
14 warrant ~~out of~~ from the county telephone fund. The telephone chief
15 and assistants hereinafter referred to, such compensation as shall
16 ~~be fixed by the board,~~ PROVIDED, they shall ~~never not~~ be paid any
17 ~~sum out of~~ from any other fund for their services, ~~or otherwise,~~
18 except that the ~~compensation of the~~ telephone chief may be wholly
19 or partly paid ~~out of~~ from the county general fund during the
20 construction of ~~said the telephone~~ system or for the period of one
21 year thereafter, providing if sufficient funds are not available in
22 the county telephone fund for that purpose.

23 Sec. 361. Section 86-407, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~86-407.~~ (1) The county board shall provide by
26 resolution, which shall be published with its regular proceedings,
27 for the rates and tolls to be charged each subscriber system for
28 the use of the telephone system within ~~said the~~ county. The county

1 board ~~+ PROVIDED, in its discretion it~~ may provide rates and tolls
 2 for the use of the entire county system, and, if ~~may also, in case~~
 3 more than one local exchange is established, may provide charges
 4 and tolls for the use of the telephones connected to the various
 5 exchanges. ~~In providing such charges and tolls, the same~~ The
 6 charges and tolls shall, so far as ~~may be~~ practicable, be based
 7 upon the actual cost of service, including operation expenses,
 8 salaries, maintenance of property, and ~~the like, and after the~~
 9 other expenses. The charges and tolls shall take into account any
 10 deduction from the gross income of a reasonable percentage for
 11 depreciation of property, and for necessary extension work. It is
 12 the intention that such system shall be operated, as ~~nearly as may~~
 13 be far as practicable, for the actual cost of service, but shall be
 14 self-sustaining and self-perpetuating.

15 (2) The charges and tolls shall be collected by the
 16 telephone chief. On a monthly basis the telephone chief shall
 17 remit such charges and tolls to , and by him paid over monthly into
 18 the county treasurer's office for credit into a separate fund to be
 19 known as the county telephone fund. The county telephone fund , in
 20 which shall also be included include the funds, if any, derived
 21 from the maintenance and extension tax provided for in section
 22 ~~86-405~~ 359 of this act.

23 Sec. 362. Section 86-408, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 ~~86-408.~~ The power to establish public telephone systems
 26 as provided for by sections ~~86-401 to 86-412~~ 355 to 366 of this act
 27 shall include the right to purchase or to acquire, through
 28 arbitration or by condemnation proceedings, ~~the~~ any telephone

1 ~~systems~~ system already existing in the county. ~~Whenever~~ If there
2 ~~is already~~ exists a telephone system ~~or systems~~ in such county, the
3 ~~furnishing service to the inhabitants thereof,~~ it shall be the duty
4 ~~of said county to~~ shall acquire the ~~same,~~ either telephone system
5 by purchase, ~~or by~~ arbitration, or ~~by~~ condemnation proceedings, as
6 determined by the county. ~~shall determine.~~

7 Sec. 363. Section 86-409, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-409.~~ In the event (1) If the price ~~to be paid for~~
10 ~~said~~ for the telephone system is to be ~~fixed~~ set by condemnation
11 proceedings, such proceedings shall be ~~had as provided for~~ held in
12 accordance with section ~~86-411~~ 365 of this act.

13 (2) If the price ~~to be paid for~~ said the telephone system
14 is to be ~~fixed~~ set by arbitration, ~~then~~ one arbitrator shall be
15 appointed by the county, one arbitrator shall be appointed by the
16 owner of the telephone system to be acquired, and the two appointed
17 arbitrators ~~thus appointed~~ shall select a third arbitrator. The ~~7~~
18 ~~and the~~ price agreed upon by two or more of ~~said~~ the arbitrators,
19 excluding anything for going value, shall constitute the award of
20 the arbitrators. + PROVIDED, HOWEVER, upon the filing of

21 (3) Once the price is set pursuant to subsection (1) or
22 (2) of this section, the owner of the telephone system shall file
23 with the county board a written acceptance of the award of the
24 arbitrators, ~~or the award made by the appraisers in condemnation~~
25 proceedings. Before ~~7 by the owners of the telephone system before~~
26 ~~the price to be paid for such telephone system shall become~~ becomes
27 binding upon the county, the ~~same~~ price must be submitted to and be
28 approved by a vote of a majority of the electors of ~~said the~~

1 county, voting at a general or special election of the county
2 called for that purpose. The election notice shall ~~7 and the~~
3 ~~notice therefor must~~ state the purchase price ~~to be paid~~ for said
4 the telephone system.

5 Sec. 364. Section 86-410, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-410. In the event~~ If the electors of the county ~~shall~~
8 reject the price ~~fixed by the arbitrators, or by the appraisers in~~
9 ~~condemnation proceedings,~~ set pursuant to subsection (1) or (2) of
10 section 363 of this act or the owner of ~~such the~~ telephone system
11 refuses to abide by the price ~~as fixed by said arbitration, or by~~
12 ~~the report of the appraisers appointed by the county court in such~~
13 ~~condemnation proceedings,~~ then set pursuant to subsection (1) or
14 (2) of section 363 of this act, such county ~~shall have the right to~~
15 may construct a public telephone system without acquiring the
16 existing telephone system. ~~of such owner.~~

17 Sec. 365. Section 86-411, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-411. For the purpose of carrying out the provisions~~
20 ~~of sections 86-401 to 86-412~~ 355 to 366 of this act, the right of
21 eminent domain is granted to the various counties to condemn any
22 ~~and all~~ private property necessary, but only ~~on~~ upon just
23 compensation to the property owner. ~~thereof.~~ The procedure to
24 condemn property shall be exercised in the manner set forth in
25 sections 76-704 to 76-724.

26 Sec. 366. Section 86-412, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-412.~~ Any county maintaining and operating a county

1 telephone system, ~~as provided in sections 86-401 to 86-412,~~ shall
2 ~~also have power~~ may, through its county board, ~~to~~ enter into yearly
3 contracts with other counties and municipalities, owning and
4 operating telephone systems, and ~~also~~ with persons, firms, and
5 corporations operating telephone systems, (1) for physical
6 connection with such other telephone systems for the interchange of
7 telephone service and the transmission of telephone messages to (a)
8 originating from points within the county and terminating at points
9 beyond the county line of such outside the county, and (b)
10 originating from points without to outside the county and
11 terminating at points within such the county, and for the
12 transmission of messages (c) originating from points without such
13 outside the county, transmitted over its telephone wires to other
14 within the county, and terminating at points beyond the boundaries
15 of such outside the county, and (2) with full power to fix and
16 agree upon toll rates for such intercounty service.

17 Sec. 367. Section 86-101, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-101.~~ All associations organized or incorporated under
20 the laws of this state, ~~or~~ by and under authority of any other
21 state, or by authority of the United States, whose object and
22 purpose is the transmission, collection, and distribution of
23 dispatches by telegraph, ~~shall be~~ are subject to the ~~regulations~~
24 ~~and restrictions prescribed in sections 86-102 to 86-113~~ 368 to 376
25 of this act.

26 Sec. 368. Section 86-102, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-102.~~ Every telegraph company and every press

1 association or corporation engaged in the transmission, collection,
2 distribution, or delivery of ~~telegraphic~~ telegraph dispatches,
3 either for private use or for publication in newspapers, shall file
4 in the office of the Secretary of State a statement, a copy of its
5 articles of incorporation or other articles of organization, and a
6 copy of its regulations and bylaws. The statement shall be
7 certified ~~to~~ under oath by ~~its~~ the president and secretary or by
8 two of ~~its~~ the officers, ~~embodying the following information and~~
9 shall contain: (1) The name of the association; (2) the amount of
10 capital invested; and (3) the character of its business. ~~and~~
11 ~~together with a true copy of its articles of incorporation or other~~
12 ~~articles of organization, with its regulations and bylaws then in~~
13 ~~force.~~

14 Sec. 369. Section 86-103, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~86-103.~~ It shall be the duty of the The Secretary of
17 State ~~to~~ shall issue a certificate to every company, association,
18 or corporation that has filed the statement required by section
19 ~~86-102, upon payment~~ 368 of this act and has paid a filing fee of
20 five dollars. The ~~and~~ which certificate ~~shall convey~~ conveys
21 authority to such company, association, or corporation to conduct
22 its business within this state under ~~the restrictions and penalties~~
23 ~~imposed by sections 86-108 and 86-110 to 86-112~~ 373 to 376 of this
24 act.

25 Sec. 370. Section 86-104, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~86-104.~~ Every telegraph company, and press association
28 or corporation engaged in the transmission, collection, and

1 delivery of ~~telegraphic~~ telegraph dispatches, that ~~shall refuse or~~
2 ~~fail~~ refuses or fails to comply with ~~the provisions of~~ section
3 ~~86-102~~ 368 of this act shall forfeit its right to carry on the
4 collection, transmission, and delivery of dispatches for
5 publication or for private use, and shall ~~furthermore~~ forfeit to
6 the county where such business is ~~carried on~~, conducted one
7 thousand dollars for each ~~and every day it so continues in~~
8 violation of sections ~~86-101 to 86-103~~, the ~~penal sum of one~~
9 ~~thousand dollars~~, to be recovered in any court of competent
10 jurisdiction. It shall be the duty of county attorneys to 367 to
11 369 of this act. Each day a violation continues constitutes a
12 separate violation. The county attorney shall prosecute such
13 violations, at the expense of the ~~respective counties wherein said~~
14 county where the violations occur occurred.

15 Sec. 371. Section 86-105, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~86-105.~~ All telegraph companies and press associations
18 or corporations operating telegraph lines in this state shall (1)
19 transmit and forward all dispatches directed to newspapers, private
20 individuals, or public officers, with impartiality, in the order in
21 which they are received, and (2) use due diligence in their
22 delivery, without discrimination as to any person or party to whom
23 they may be directed.

24 Sec. 372. Section 86-106, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-106.~~ ~~Every~~ (1) It is unlawful for any officer or
27 employee of any telegraph company, or press association or
28 corporation engaged in the transmission of dispatches, to who shall

1 willfully delay the transmission or delivery of any dispatch, or to
2 willfully divulge the contents of any dispatch entrusted to his or
3 her care, to any person except the party entitled to receive ~~the~~
4 ~~same~~, ~~shall be guilty of~~ such dispatch.

5 (2) A violation of this section is a Class III
6 misdemeanor.

7 Sec. 373. Section 86-107, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-107. It shall be~~ (1) Except as otherwise provided in
10 this section, it is unlawful for any telegraph company, its agents,
11 or its operators, to demand, charge, or receive from any
12 individual, association, or corporation a greater sum for the
13 transmission and delivery of any telegram or message over a given
14 distance than it demands, charges, or receives for the transmission
15 and delivery of any telegram or message containing an equal number
16 of words over a greater distance. A dispatch + PROVIDED,
17 ~~dispatches~~ transmitted during the night and ~~dispatches~~ a dispatch
18 for publication in newspapers a newspaper may be forwarded and
19 delivered at reduced rates. Such if such rates must, however, be
20 are uniform to all patrons for the same service.

21 (2) It is unlawful for any telegraph company, or press
22 association or organization engaged in the business of forwarding
23 dispatches by telegraph, to demand, collect, or receive from any
24 publisher or proprietor of a newspaper any greater sum for a given
25 service than it demands, charges, or collects from the publisher or
26 proprietor of any other newspaper for a like service.

27 (3) A violation of this section is a Class II
28 misdemeanor. In addition, such telegraph company or press

1 association or organization shall be liable for all damages
2 sustained by the person or party as a result of such
3 discrimination.

4 Sec. 374. Section 86-109, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~86-109. Every~~ (1) Any telegraph company, and every press
7 association or organization engaged in the transmission,
8 collection, distribution, or publication of dispatches, shall
9 afford the same and equal facilities to all publishers of
10 newspapers, and shall furnish the dispatches collected by them for
11 publication in any given locality to all newspapers ~~there~~ published
12 in such locality on the same conditions as to payment and delivery.

13 (2) A violation of this section is a Class II
14 misdemeanor. In addition, such telegraph company or press
15 association or organization and its members shall be jointly and
16 severally liable for all damages sustained by the owner of any
17 newspaper as a result of such discrimination.

18 Sec. 375. Section 86-111, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-111. If~~ (1) It is unlawful for any telegraph company,
21 any press association or organization engaged in the transmission
22 of telegraph dispatches from any place in this state, or the person
23 having the control or management ~~thereof, refuses~~ of the company,
24 association, or organization, to refuse to receive ~~dispatches~~ a
25 dispatch from any person, corporation, or ~~any other~~ telegraph
26 company, or to refuse to transmit the ~~same~~ dispatch with fidelity
27 and without unreasonable delay.

28 (2) Upon application to send a dispatch, any telegraph

1 company or its operator, agent, clerk, or servant shall inform the
2 applicant, and write upon the dispatch if required by him or her,
3 that the line is not in working order or that the dispatches
4 already on hand for transmission will occupy the line so that the
5 dispatch offered cannot be transmitted within the time required, if
6 applicable. It is unlawful for any telegraph company or its
7 operator, agent, clerk, or servant to omit or to intentionally give
8 false information to the applicant in relation to the time within
9 which the dispatch offered may be sent.

10 (3) A violation of this section is ~~it shall be guilty~~
11 ~~of a Class V misdemeanor. In~~ ~~and upon conviction shall be fined,~~
12 ~~for each and every offense, in the sum of not less than fifty~~
13 ~~dollars nor more than one hundred dollars, and in addition, such~~
14 company, association, corporation, or person shall be liable for
15 damages to the person or corporation sustaining a loss by reason of
16 such refusal or failure. ~~to so transmit.~~

17 Sec. 376. Section 86-112, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-112.~~ Any telegraph company engaged in the
20 ~~transmission of telegraphic dispatches is declared to be liable for~~
21 ~~the nondelivery of dispatches entrusted to its care, and for all~~
22 ~~mistakes in transmitting messages made by any person in its employ~~
23 its employee or agent, and for damages resulting from a failure to
24 perform any other duty required by law. Any such Such telegraph
25 company shall not be exempted from any such liability by reason of
26 any clause, condition, or agreement contained in its printed
27 blanks.

28 Sec. 377. Section 86-1701, Revised Statutes Supplement,

1 2000, is amended to read:

2 ~~86-1701.~~ (1) It is the intent of the Legislature to
3 promote economic growth and the efficient operation of business and
4 government in Nebraska through the electronic exchange of
5 information and legally binding electronic transactions. In order
6 to facilitate the electronic exchange of information, Nebraska must
7 establish means to ensure that electronic transactions are legally
8 binding and enforceable, while ensuring that security measures are
9 in place to prevent opportunities for fraud and misuse.

10 (2) In any written communication in which a signature is
11 required or used, any party to the communication may affix a
12 signature by use of a digital signature that complies with the
13 requirements of this section. The use of a digital signature shall
14 have the same force and effect as the use of a manual signature if
15 and only if it embodies all of the following attributes:

16 (a) It is unique to the person using it;

17 (b) It is capable of verification;

18 (c) It is under the sole control of the person using it;

19 (d) It is linked to data in such a manner that if the
20 data is changed, the digital signature is invalidated; and

21 (e) It conforms to rules and regulations adopted and
22 promulgated by the Secretary of State.

23 (3) In any communication in which a signature is required
24 or used, a state agency or political subdivision may accept a
25 digital signature or an electronic signature and may accept the
26 communication in electronic format. Any use of a digital
27 signature, an electronic signature, or an electronic communication
28 by a court is subject to the rules of the Supreme Court.

1 (4) The Secretary of State shall adopt and promulgate
2 rules and regulations to carry out this section which:

3 (a) Identify and define the type of signature which may
4 be used in the electronic communications governed by the rules and
5 regulations;

6 (b) Identify and define the type of electronic
7 communications for which a digital signature or an electronic
8 signature may be used; and

9 (c) Provide a degree of security reasonably related to
10 the risks and consequences of fraud or misuse for the type of
11 electronic communication which, at a minimum, shall require the
12 maintenance of an audit trail of the assignment or approval and the
13 use of the unique access code or unique electronic identifier.

14 (5) This section shall not be construed to invalidate
15 digital signatures, electronic signatures, or electronic
16 communications which are valid under any other applicable law.

17 (6) Unless otherwise provided by law, the use or
18 acceptance of a digital signature or an electronic signature shall
19 be at the option of the parties to the communication. This section
20 shall not be construed to require a person to use or permit the use
21 of a digital signature or electronic signature.

22 (7) In developing the rules and regulations, the
23 Secretary of State shall seek the advice of public and private
24 entities, including the Department of Administrative Services.

25 (8) For purposes of this section:

26 (a) Electronic signature means a unique access code or
27 other unique electronic identifier assigned or approved by the
28 state agency for use in communications with the state agency;

1 (b) Digital signature means an electronic identifier,
2 created by computer, intended by the person using it to have the
3 same force and effect as a manual signature; and

4 (c) State agency means any agency, board, court, or
5 constitutional officer of the executive, judicial, and legislative
6 branches of state government, except individual members of the
7 Legislature.

8 Sec. 378. Section 86-2101, Revised Statutes Supplement,
9 2000, is amended to read:

10 ~~86-2101.~~ Sections ~~86-2101 to 86-2116~~ 378 to 409 of this
11 act shall be known and may be cited as the Uniform Electronic
12 Transactions Act.

13 Sec. 379. Section 86-2102, Revised Statutes Supplement,
14 2000, is amended to read:

15 ~~86-2102.~~ For purposes of the Uniform Electronic
16 Transactions Act, the definitions found in sections 380 to 395 of
17 this act apply. +

18 ~~(1) Agreement means the bargain of the parties in fact,~~
19 ~~as found in their language or inferred from other circumstances and~~
20 ~~from rules, regulations, and procedures given the effect of~~
21 ~~agreements under laws otherwise applicable to a particular~~
22 ~~transaction.~~

23 ~~(2) Automated transaction means a transaction conducted~~
24 ~~or performed, in whole or in part, by electronic means or~~
25 ~~electronic records, in which the acts or records of one or both~~
26 ~~parties are not reviewed by an individual in the ordinary course in~~
27 ~~forming a contract, performing under an existing contract, or~~
28 ~~fulfilling an obligation required by the transaction.~~

1 (3) Computer program means a set of statements or
2 instructions to be used directly or indirectly in an information
3 processing system in order to bring about a certain result.

4 (4) Contract means the total legal obligation resulting
5 from the parties' agreement as affected by the act and other
6 applicable law.

7 (5) Electronic means relating to technology having
8 electrical, digital, magnetic, wireless, optical, electromagnetic,
9 or similar capabilities.

10 (6) Electronic agent means a computer program or an
11 electronic or other automated means used independently to initiate
12 an action or respond to electronic records or performances in whole
13 or in part, without review or action by an individual.

14 (7) Electronic record means a record created, generated,
15 sent, communicated, received, or stored by electronic means.

16 (8) Electronic signature means an electronic sound,
17 symbol, or process attached to or logically associated with a
18 record and executed or adopted by a person with the intent to sign
19 the record.

20 (9) Governmental agency means an executive, legislative,
21 or judicial agency, department, board, commission, authority,
22 institution, or instrumentality of the federal government or of a
23 state or of a county, municipality, or other political subdivision
24 of a state.

25 (10) Information means data, text, images, sounds, codes,
26 computer programs, software, data bases, or the like.

27 (11) Information processing system means an electronic
28 system for creating, generating, sending, receiving, storing,

1 displaying, or processing information.

2 (12) Person means an individual, corporation, business
3 trust, estate, trust, partnership, limited liability company,
4 association, joint venture, governmental agency, public
5 corporation, or any other legal or commercial entity.

6 (13) Record means information that is inscribed on a
7 tangible medium or that is stored in an electronic or other medium
8 and is retrievable in perceivable form.

9 (14) Security procedure means a procedure employed for
10 the purpose of verifying that an electronic signature, record, or
11 performance is that of a specific person or for detecting changes
12 or errors in the information in an electronic record. The term
13 includes a procedure that requires the use of algorithms or other
14 codes, identifying words or numbers, encryption, or callback or
15 other acknowledgment procedures.

16 (15) State means a state of the United States, the
17 District of Columbia, Puerto Rico, the United States Virgin
18 Islands, or any territory or insular possession subject to the
19 jurisdiction of the United States. The term includes an Indian
20 tribe or band, or Alaskan native village, which is recognized by
21 federal law or formally acknowledged by a state.

22 (16) Transaction means an action or set of actions
23 occurring between two or more persons relating to the conduct of
24 business, commercial, or governmental affairs.

25 Sec. 380. Agreement means the bargain of the parties in
26 fact as found in their language or inferred from other
27 circumstances and from rules, regulations, and procedures given the
28 effect of agreements under laws otherwise applicable to a

1 particular transaction.

2 Sec. 381. Automated transaction means a transaction
3 conducted or performed, in whole or in part, by electronic means or
4 electronic records, in which the acts or records of one or both
5 parties are not reviewed by an individual in the ordinary course in
6 forming a contract, performing under an existing contract, or
7 fulfilling an obligation required by the transaction.

8 Sec. 382. Computer program means a set of statements or
9 instructions to be used directly or indirectly in an information
10 processing system in order to bring about a certain result.

11 Sec. 383. Contract means the total legal obligation
12 resulting from the parties' agreement as affected by the Uniform
13 Electronic Transactions Act and other applicable law.

14 Sec. 384. Electronic means relating to technology having
15 electrical, digital, magnetic, wireless, optical, electromagnetic,
16 or similar capabilities.

17 Sec. 385. Electronic agent means a computer program or
18 an electronic or other automated means used independently to
19 initiate an action or respond to electronic records or
20 performances, in whole or in part, without review or action by an
21 individual.

22 Sec. 386. Electronic record means a record created,
23 generated, sent, communicated, received, or stored by electronic
24 means.

25 Sec. 387. Electronic signature means an electronic
26 sound, symbol, or process attached to or logically associated with
27 a record and executed or adopted by a person with the intent to
28 sign the record.

1 Sec. 388. Governmental agency means an executive,
2 legislative, or judicial agency, department, board, commission,
3 authority, institution, or instrumentality of the federal
4 government or of a state or of a county, municipality, or other
5 political subdivision of a state.

6 Sec. 389. Information means data, text, images, sounds,
7 codes, computer programs, software, data bases, or the like.

8 Sec. 390. Information processing system means an
9 electronic system for creating, generating, sending, receiving,
10 storing, displaying, or processing information.

11 Sec. 391. Person means an individual, corporation,
12 business trust, estate, trust, partnership, limited liability
13 company, association, joint venture, governmental agency, public
14 corporation, or any other legal or commercial entity.

15 Sec. 392. Record means information that is inscribed on
16 a tangible medium or that is stored in an electronic or other
17 medium and is retrievable in perceivable form.

18 Sec. 393. Security procedure means a procedure employed
19 for the purpose of verifying that an electronic signature, record,
20 or performance is that of a specific person or for detecting
21 changes or errors in the information in an electronic record.
22 Security procedure includes a procedure that requires the use of
23 algorithms or other codes, identifying words or numbers,
24 encryption, or callback or other acknowledgement procedures.

25 Sec. 394. State means a state of the United States, the
26 District of Columbia, Puerto Rico, the United States Virgin
27 Islands, or any territory or insular possession subject to the
28 jurisdiction of the United States. State includes an Indian tribe

1 or band, or Alaskan native village, which is recognized by federal
2 law or formally acknowledged by a state.

3 Sec. 395. Transaction means an action or set of actions
4 occurring between two or more persons relating to the conduct of
5 business, commercial, or governmental affairs.

6 Sec. 396. Section 86-2103, Revised Statutes Supplement,
7 2000, is amended to read:

8 ~~86-2103.~~ ~~(a)~~ (1) Except as otherwise provided in
9 subsection ~~(b)~~ (2) of this section, the Uniform Electronic
10 Transactions Act applies to electronic records and electronic
11 signatures relating to a transaction.

12 ~~(b)~~ (2) The act does not apply to a transaction to the
13 extent it is governed by:

14 ~~(1) a~~ (a) A law governing the creation and execution of
15 wills, codicils, or testamentary trusts; or

16 ~~(2) the~~ (b) The Uniform Commercial Code other than
17 sections 1-107 and 1-206, article 2, and article 2A.

18 ~~(c)~~ (3) The act applies to an electronic record or
19 electronic signature otherwise excluded from the application of the
20 act under subsection ~~(b)~~ (2) of this section to the extent it is
21 governed by a law other than those specified in subsection ~~(b)~~ (2)
22 of this section.

23 ~~(d)~~ (4) A transaction subject to the act is also subject
24 to other applicable substantive law.

25 Sec. 397. Section 86-2104, Revised Statutes Supplement,
26 2000, is amended to read:

27 ~~86-2104.~~ The Uniform Electronic Transactions Act applies
28 to any electronic record or electronic signature created,

1 generated, sent, communicated, received, or stored on or after July
2 13, 2000.

3 Sec. 398. Section 86-2105, Revised Statutes Supplement,
4 2000, is amended to read:

5 ~~86-2105.~~ ~~(a)~~ (1) The Uniform Electronic Transactions Act
6 does not require a record or signature to be created, generated,
7 sent, communicated, received, stored, or otherwise processed or
8 used by electronic means or in electronic form.

9 ~~(b)~~ (2) The act applies only to transactions between
10 parties each of which has agreed to conduct transactions by
11 electronic means. Whether the parties agree to conduct a
12 transaction by electronic means is determined from the context and
13 surrounding circumstances, including the parties' conduct.

14 ~~(c)~~ (3) A party that agrees to conduct a transaction by
15 electronic means may refuse to conduct other transactions by
16 electronic means. The right granted by this subsection may not be
17 waived by agreement.

18 ~~(d)~~ (4) Except as otherwise provided in the act, the
19 effect of any of its provisions may be varied by agreement. The
20 presence in certain provisions of the act of the words "unless
21 otherwise agreed", or words of similar import, does not imply that
22 the effect of other provisions may not be varied by agreement.

23 ~~(e)~~ (5) Whether an electronic record or electronic
24 signature has legal consequences is determined by the act and other
25 applicable law.

26 Sec. 399. Section 86-2106, Revised Statutes Supplement,
27 2000, is amended to read:

28 ~~86-2106.~~ The Uniform Electronic Transactions Act must be

1 construed and applied:

2 (1) ~~to~~ To facilitate electronic transactions consistent
3 with other applicable law;

4 (2) ~~to~~ To be consistent with reasonable practices
5 concerning electronic transactions and with the continued expansion
6 of those practices; and

7 (3) ~~to~~ To effectuate its general purpose to make uniform
8 the law with respect to the subject of the act among states
9 enacting it.

10 Sec. 400. Section 86-2107, Revised Statutes Supplement,
11 2000, is amended to read:

12 ~~86-2107. (a)~~ (1) A record or signature may not be denied
13 legal effect or enforceability solely because it is in electronic
14 form.

15 ~~(b)~~ (2) A contract may not be denied legal effect or
16 enforceability solely because an electronic record was used in its
17 formation.

18 ~~(c)~~ (3) If a law requires a record to be in writing, an
19 electronic record satisfies the law.

20 ~~(d)~~ (4) If a law requires a signature, an electronic
21 signature satisfies the law.

22 Sec. 401. Section 86-2108, Revised Statutes Supplement,
23 2000, is amended to read:

24 ~~86-2108. (a)~~ (1) If parties have agreed to conduct a
25 transaction by electronic means and a law requires a person to
26 provide, send, or deliver information in writing to another person,
27 the requirement is satisfied if the information is provided, sent,
28 or delivered, as the case may be, in an electronic record capable

1 of retention by the recipient at the time of receipt. An electronic
2 record is not capable of retention by the recipient if the sender
3 or its information processing system inhibits the ability of the
4 recipient to print or store the electronic record.

5 ~~(b)~~ (2) If a law other than the Uniform Electronic
6 Transactions Act requires a record ~~(i)~~ to be posted or displayed in
7 a certain manner; or ~~(ii)~~ to be sent, communicated, or transmitted
8 by a specified method; or ~~(iii)~~ to contain information that is
9 formatted in a certain manner, the following rules apply:

10 ~~(1)~~ (a) The record must be posted or displayed in the
11 manner specified in the other law; or

12 ~~(2)~~ (b) Except as otherwise provided in subdivision
13 ~~(d)(2)~~ (4)(b) of this section, the record must be sent,
14 communicated, or transmitted by the method specified in the other
15 law; and or

16 ~~(3)~~ (c) The record must contain the information formatted
17 in the manner specified in the other law.

18 ~~(e)~~ (3) If a sender inhibits the ability of a recipient
19 to store or print an electronic record, the electronic record is
20 not enforceable against the recipient.

21 ~~(d)~~ (4) The requirements of this section may not be
22 varied by agreement, but:

23 ~~(1)~~ ~~to~~ (a) To the extent a law other than the act
24 requires information to be provided, sent, or delivered in writing
25 but permits that requirement to be varied by agreement, the
26 requirement under subsection ~~(a)~~ (1) of this section that the
27 information be in the form of an electronic record capable of
28 retention may also be varied by agreement; and

1 ~~(2)~~ a (b) A requirement under a law other than the act to
2 send, communicate, or transmit a record by first-class mail,
3 postage prepaid or regular United States mail, may be varied by
4 agreement to the extent permitted by the other law.

5 Sec. 402. Section 86-2109, Revised Statutes Supplement,
6 2000, is amended to read:

7 ~~86-2109.~~ ~~(a)~~ (1) An electronic record or electronic
8 signature is attributable to a person if it was the act of the
9 person. The act of the person may be shown in any manner, including
10 a showing of the efficacy of any security procedure applied to
11 determine the person to which the electronic record or electronic
12 signature was attributable.

13 ~~(b)~~ (2) The effect of an electronic record or electronic
14 signature attributed to a person under subsection ~~(a)~~ (1) of this
15 section is determined from the context and surrounding
16 circumstances at the time of its creation, execution, or adoption,
17 including the parties' agreement, if any, and otherwise as provided
18 by law.

19 Sec. 403. Section 86-2110, Revised Statutes Supplement,
20 2000, is amended to read:

21 ~~86-2110.~~ If a change or error in an electronic record
22 occurs in a transmission between parties to a transaction, the
23 following rules apply:

24 (1) If the parties have agreed to use a security
25 procedure to detect changes or errors and one party has conformed
26 to the procedure, but the other party has not, and the
27 nonconforming party would have detected the change or error had
28 that party also conformed, the conforming party may avoid the

1 effect of the changed or erroneous electronic record; +

2 (2) In an automated transaction involving an individual,
3 the individual may avoid the effect of an electronic record that
4 resulted from an error made by the individual in dealing with the
5 electronic agent of another person if the electronic agent did not
6 provide an opportunity for the prevention or correction of the
7 error and, at the time the individual learns of the error, the
8 individual:

9 ~~(A) promptly~~ (a) Promptly notifies the other person of
10 the error and that the individual did not intend to be bound by the
11 electronic record received by the other person;

12 ~~(B) takes~~ (b) Takes reasonable steps, including steps
13 that conform to the other person's reasonable instructions, to
14 return to the other person or, if instructed by the other person,
15 to destroy the consideration received, if any, as a result of the
16 erroneous electronic record; and

17 ~~(C) has~~ (c) Has not used or received any benefit or value
18 from the consideration, if any, received from the other person; +

19 (3) If neither subdivision (1) or subdivision (2) of this
20 section applies, the change or error has the effect provided by
21 other law, including the law of mistake, and the parties' contract,
22 if any; and +

23 (4) Subdivisions (2) and (3) of this section may not be
24 varied by agreement.

25 Sec. 404. Section 86-2111, Revised Statutes Supplement,
26 2000, is amended to read:

27 ~~86-2111.~~ If a law requires a signature or record to be
28 notarized, acknowledged, verified, or made under oath, the

1 requirement is satisfied if the electronic signature of the person
2 authorized to perform those acts, together with all other
3 information required to be included by other applicable law, is
4 attached to or logically associated with the signature or record.

5 Sec. 405. Section 86-2112, Revised Statutes Supplement,
6 2000, is amended to read:

7 ~~86-2112.~~ ~~(a)~~ (1) If a law requires that a record be
8 retained, the requirement is satisfied by retaining an electronic
9 record of the information in the record which:

10 ~~(1)~~ accurately (a) Accurately reflects the information
11 set forth in the record after it was first generated in its final
12 form as an electronic record or otherwise; and

13 ~~(2)~~ ~~remains~~ (b) Remains accessible for later reference.

14 ~~(b)~~ (2) A requirement to retain a record in accordance
15 with subsection ~~(a)~~ (1) of this section does not apply to any
16 information the sole purpose of which is to enable the record to be
17 sent, communicated, or received.

18 ~~(c)~~ (3) A person may satisfy subsection ~~(a)~~ (1) of this
19 section by using the services of another person if the requirements
20 of that subsection are satisfied.

21 ~~(d)~~ (4) If a law requires a record to be presented or
22 retained in its original form, or provides consequences if the
23 record is not presented or retained in its original form, that law
24 is satisfied by an electronic record retained in accordance with
25 subsection ~~(a)~~ (1) of this section.

26 ~~(e)~~ (5) If a law requires retention of a check, that
27 requirement is satisfied by retention of an electronic record of
28 the information on the front and back of the check in accordance

1 with subsection ~~(a)~~ (1) of this section.

2 ~~(f)~~ (6) A record retained as an electronic record in
3 accordance with subsection ~~(a)~~ (1) of this section satisfies a law
4 requiring a person to retain a record for evidentiary, audit, or
5 like purposes, unless a law enacted after July 13, 2000,
6 specifically prohibits the use of an electronic record for the
7 specified purpose.

8 ~~(g)~~ (7) This section does not preclude a governmental
9 agency of this state from specifying additional requirements for
10 the retention of a record subject to the agency's jurisdiction.

11 Sec. 406. Section 86-2113, Revised Statutes Supplement,
12 2000, is amended to read:

13 ~~86-2113.~~ In a proceeding, evidence of a record or
14 signature may not be excluded solely because it is in electronic
15 form.

16 Sec. 407. Section 86-2114, Revised Statutes Supplement,
17 2000, is amended to read:

18 ~~86-2114.~~ In an automated transaction, the following
19 rules apply:

20 (1) A contract may be formed by the interaction of
21 electronic agents of the parties, even if no individual was aware
22 of or reviewed the electronic agents' actions or the resulting
23 terms and agreements; -

24 (2) A contract may be formed by the interaction of an
25 electronic agent and an individual, acting on the individual's own
26 behalf or for another person, including by an interaction in which
27 the individual performs actions that the individual is free to
28 refuse to perform and which the individual knows or has reason to

1 know will cause the electronic agent to complete the transaction or
2 performance; and -

3 (3) The terms of the contract are determined by the
4 substantive law applicable to it.

5 Sec. 408. Section 86-2115, Revised Statutes Supplement,
6 2000, is amended to read:

7 ~~86-2115.~~ ~~(a)~~ (1) Unless otherwise agreed between the
8 sender and the recipient, an electronic record is sent when it:

9 ~~(1) is~~ (a) Is addressed properly or otherwise directed
10 properly to an information processing system that the recipient has
11 designated or uses for the purpose of receiving electronic records
12 or information of the type sent and from which the recipient is
13 able to retrieve the electronic record;

14 ~~(2) is~~ (b) Is in a form capable of being processed by
15 that system; and

16 ~~(3) enters~~ (c) Enters an information processing system
17 outside the control of the sender or of a person that sent the
18 electronic record on behalf of the sender or enters a region of the
19 information processing system designated or used by the recipient
20 which is under the control of the recipient.

21 ~~(b)~~ (2) Unless otherwise agreed between a sender and the
22 recipient, an electronic record is received when:

23 ~~(1) is~~ (a) It enters an information processing system
24 that the recipient has designated or uses for the purpose of
25 receiving electronic records or information of the type sent and
26 from which the recipient is able to retrieve the electronic record;
27 and

28 ~~(2) is~~ (b) It is in a form capable of being processed by

1 that system.

2 ~~(e)~~ (3) Subsection ~~(b)~~ (2) of this section applies even
3 if the place the information processing system is located is
4 different from the place the electronic record is deemed to be
5 received under subsection ~~(d)~~ (4) of this section.

6 ~~(d)~~ (4) Unless otherwise expressly provided in the
7 electronic record or agreed between the sender and the recipient,
8 an electronic record is deemed to be sent from the sender's place
9 of business and to be received at the recipient's place of
10 business. For purposes of this subsection, the following rules
11 apply:

12 ~~(1)~~ (a) If the sender or recipient has more than one
13 place of business, the place of business of that person is the
14 place having the closest relationship to the underlying
15 transaction; and -

16 ~~(2)~~ (b) If the sender or the recipient does not have a
17 place of business, the place of business is the sender's or
18 recipient's residence, as the case may be.

19 ~~(e)~~ (5) An electronic record is received under subsection
20 ~~(b)~~ (2) of this section even if no individual is aware of its
21 receipt.

22 ~~(f)~~ (6) Receipt of an electronic acknowledgment from an
23 information processing system described in subsection ~~(b)~~ (2) of
24 this section establishes that a record was received but, by itself,
25 does not establish that the content sent corresponds to the content
26 received.

27 ~~(g)~~ (7) If a person is aware that an electronic record
28 purportedly sent under subsection ~~(a)~~ (1) of this section, or

1 purportedly received under subsection ~~(b)~~ (2) of this section, was
2 not actually sent or received, the legal effect of the sending or
3 receipt is determined by other applicable law. Except to the extent
4 permitted by the other law, the requirements of this subsection may
5 not be varied by agreement.

6 Sec. 409. Section 86-2116, Revised Statutes Supplement,
7 2000, is amended to read:

8 ~~86-2116.~~ ~~(a)~~ (1) In this section, transferable record
9 means an electronic record that:

10 ~~(1) would~~ (a) Would be a note under article 3 of the
11 Uniform Commercial Code or a document under article 7 of the
12 Uniform Commercial Code if the electronic record were in writing;
13 and

14 ~~(2) the~~ (b) The issuer of the electronic record expressly
15 has agreed is a transferable record.

16 ~~(b)~~ (2) A person has control of a transferable record if
17 a system employed for evidencing the transfer of interests in the
18 transferable record reliably establishes that person as the person
19 to which the transferable record was issued or transferred.

20 ~~(c)~~ (3) A system satisfies subsection ~~(b)~~ (2) of this
21 section, and a person is deemed to have control of a transferable
22 record, if the transferable record is created, stored, and assigned
23 in such a manner that:

24 ~~(1) a~~ (a) A single authoritative copy of the transferable
25 record exists which is unique, identifiable, and, except as
26 otherwise provided in subdivisions ~~(4)~~, ~~(5)~~, and ~~(6)~~ (d), (e), and
27 (f) of this subsection, unalterable;

28 ~~(2) the~~ (b) The authoritative copy identifies the person

1 asserting control as:

2 ~~(A) the~~ (i) The person to which the transferable record
3 was issued; or

4 ~~(B) if~~ (ii) If the authoritative copy indicates that the
5 transferable record has been transferred, the person to which the
6 transferable record was most recently transferred;

7 ~~(3) the~~ (c) The authoritative copy is communicated to and
8 maintained by the person asserting control or its designated
9 custodian;

10 ~~(4) copies~~ (d) Copies or revisions that add or change an
11 identified assignee of the authoritative copy can be made only with
12 the consent of the person asserting control;

13 ~~(5) each~~ (e) Each copy of the authoritative copy and any
14 copy of a copy is readily identifiable as a copy that is not the
15 authoritative copy; and

16 ~~(6) any~~ (f) Any revision of the authoritative copy is
17 readily identifiable as authorized or unauthorized.

18 ~~(d)(i)~~ (4) (a) Prior to July 1, 2001, except as otherwise
19 agreed, a person having control of a transferable record is the
20 holder, as defined in subdivision (20) of section 1-201, Uniform
21 Commercial Code, of the transferable record and has the same rights
22 and defenses as a holder of an equivalent record or writing under
23 the Uniform Commercial Code, including, if the applicable statutory
24 requirements under subsection (a) of section 3-302, 7-501, or
25 9-308, Uniform Commercial Code, are satisfied, the rights and
26 defenses of a holder in due course, a holder to which a negotiable
27 document of title has been duly negotiated, or a purchaser,
28 respectively. Delivery, possession, and indorsement are not

1 required to obtain or exercise any of the rights under this
2 subdivision.

3 ~~(ii)~~ (b) On or after July 1, 2001, except as otherwise
4 agreed, a person having control of a transferable record is the
5 holder, as defined in subdivision (20) of section 1-201, Uniform
6 Commercial Code, of the transferable record and has the same rights
7 and defenses as a holder of an equivalent record or writing under
8 the Uniform Commercial Code, including, if the applicable statutory
9 requirements under subsection (a) of section 3-302, 7-501, or
10 9-330, Uniform Commercial Code, are satisfied, the rights and
11 defenses of a holder in due course, a holder to which a negotiable
12 document of title has been duly negotiated, or a purchaser,
13 respectively. Delivery, possession, and indorsement are not
14 required to obtain or exercise any of the rights under this
15 subdivision.

16 ~~(e)~~ (5) Except as otherwise agreed, an obligor under a
17 transferable record has the same rights and defenses as an
18 equivalent obligor under equivalent records or writings under the
19 Uniform Commercial Code.

20 ~~(f)~~ (6) If requested by a person against which
21 enforcement is sought, the person seeking to enforce the
22 transferable record shall provide reasonable proof that the person
23 is in control of the transferable record. Proof may include access
24 to the authoritative copy of the transferable record and related
25 business records sufficient to review the terms of the transferable
26 record and to establish the identity of the person having control
27 of the transferable record.

28 Sec. 410. For purposes of sections 410 to 416 of this

1 act, the definitions found in sections 411 and 412 of this act
2 apply.

3 Sec. 411. Highway has the same meaning as in section
4 60-624.

5 Sec. 412. Telecommunications company has the same
6 meaning as in section 20 of this act.

7 Sec. 413. Section 86-301, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~86-301.~~ (1) Any telecommunications company, incorporated
10 or qualified to do business in this state, is granted the right to
11 construct, operate, and maintain telecommunications lines and
12 related facilities along, upon, across, and under the public
13 highways of this state, and upon and under lands in this state,
14 whether state or privately owned, except that (a) such lines and
15 related facilities shall be so constructed and maintained as not to
16 interfere with the ordinary use of such lands or of such highways
17 by the public and (b) all aerial wires and cables shall be placed
18 at a height of not less than eighteen feet above all highway
19 crossings. ~~Nothing in sections 86-301 to 86-304 shall transfer the~~
20 ~~rights now vested in municipalities in relation to the regulation~~
21 ~~of the poles, wires, cables, and other appliances.~~

22 (2) Sections ~~86-301 to 86-304~~ 410 to 416 of this act
23 shall not transfer the rights now vested in municipalities in
24 relation to the regulation of the poles, wires, cables, and other
25 appliances or authorize a telecommunications company to erect any
26 poles or construct any conduit, cable, or other facilities along,
27 upon, across, or under a public highway within a municipality
28 without first obtaining the consent of the governing body of the

1 municipality. The municipality shall not exercise any authority
2 over any rights the telecommunications company may have to deliver
3 telecommunications services as authorized by the Public Service
4 Commission or the Federal Communications Commission.

5 (3) Consent from a governing body for the use of a public
6 highway within a municipality shall be based upon a lawful exercise
7 of its statutory and constitutional authority. Such consent ~~and~~
8 shall not be unreasonably withheld, ~~nor shall any~~ and a preference
9 or disadvantage shall not be created through the granting or
10 withholding of such consent. A municipality shall not adopt an
11 ordinance that prohibits or has the effect of prohibiting the
12 ability of a telecommunications company to provide
13 telecommunications service.

14 (4) (a) A municipality shall not levy a tax, fee, or
15 charge for any right or privilege of engaging in a
16 telecommunications business or for the use by a telecommunications
17 company of a public highway other than:

18 ~~(a)~~ (i) An occupation tax authorized under section
19 14-109, 15-202, 15-203, 16-205, or 17-525; and

20 ~~(b)~~ (ii) A public highway construction permit fee or
21 charge to the extent that the fee or charge applies to all persons
22 seeking use of the public highway in a substantially similar
23 manner. All public highway construction permit fees or charges
24 shall be directly related to the costs incurred by the municipality
25 in providing services relating to the granting or administration of
26 permits. Any highway construction permit fee or charge shall also
27 be reasonably related in time to the occurrence of such costs.

28 (b) Any tax, fee, or charge imposed by a municipality

1 shall be competitively neutral.

2 (5) The changes made by Laws 1999, LB 496, shall not be
3 construed to affect the terms or conditions of any franchise,
4 license, or permit issued by a municipality prior to August 28,
5 1999, or to release any party from any obligations thereunder.
6 Such franchises, licenses, or permits shall remain fully
7 enforceable in accordance with their terms. A municipality may
8 lawfully enter into agreements with franchise holders, licensees,
9 or permittees to modify or terminate an existing franchise,
10 license, or agreement.

11 (6) Taxes or fees shall not be collected by a
12 municipality through the provision of in-kind services by a
13 telecommunications company, and a municipality shall not require
14 the provision of in-kind services as a condition of consent to the
15 use of a public highway.

16 (7) The terms of any agreement between a municipality and
17 a telecommunications company regarding use of public highways shall
18 be matters of public record and shall be made available to any
19 member of the public upon request, except that information
20 submitted to a municipality by a telecommunications company which
21 such telecommunications company determines to be proprietary shall
22 be deemed to be a trade secret pursuant to subdivision (3) of
23 section 84-712.05 and shall be accorded full protection from
24 disclosure to third parties in a manner consistent with state law.

25 ~~(8) For purposes of sections 86-301 to 86-304:~~

26 ~~(a) Highway shall have the same meaning as in section~~
27 ~~60-624, and~~

28 ~~(b) Telecommunications company shall have the same~~

1 ~~meaning as in section 86-802.~~

2 Sec. 414. Section 86-302, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-302.~~ ~~Every~~ Any telecommunications company ~~is~~
5 ~~authorized to~~ may enter upon private lands to survey the lands for
6 the purpose of obtaining a right-of-way. Every owner of an
7 interest in private lands to be occupied by any telecommunications
8 lines shall be compensated for any right-of-way ~~thus~~ appropriated
9 pursuant to sections 410 to 416 of this act. The procedure to
10 condemn property shall be exercised in the manner set forth in
11 sections 76-704 to 76-724.

12 Sec. 415. Section 86-303, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-303.~~ Any right-of-way obtained under sections ~~86-301~~
15 ~~to 86-304~~ 410 to 416 of this act by condemnation proceedings for
16 poles, aerial wires, and aerial cables shall be located only on
17 section boundary lines as established by law or property boundary
18 lines adjoining public highways as established by law. All expense
19 of surveying, court costs, and reasonable attorney's fees shall be
20 paid by the telecommunications company obtaining the right-of-way.
21 If any telecommunications line constructed under sections ~~86-301 to~~
22 ~~86-303~~ 410 to 416 of this act is abandoned for three years, the
23 right-of-way or easement shall revert to the property affected.

24 Sec. 416. Section 86-303.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-303.01.~~ If ~~the public highway, along, upon, across,~~
27 ~~or under which~~ the right to construct, operate, and maintain the
28 telecommunications lines and related facilities is granted, ~~is~~

1 along, upon, across, or under a state or federal highway, ~~then~~ the
2 location and installation of such lines and related facilities,
3 insofar as they pertain to the present and future use of the
4 right-of-way for highway purposes, ~~shall be~~ is subject to ~~such~~
5 ~~reasonable rules and regulations and restrictions as are or may be~~
6 ~~prescribed by~~ of the Department of Roads. If the future use of the
7 state or federal highway requires the moving or relocating of the
8 facilities, ~~then~~ such facilities shall be removed or relocated by
9 the owner at the owner's cost and expense and as directed by the
10 Department of Roads except as provided by section 39-1304.02.

11 Sec. 417. Section 86-334, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~86-334.~~ Whenever any county or township road
14 construction, widening, repair, or grading project requires, or can
15 reasonably be expected to require, the performance of any work
16 within six feet of any telephone, ~~electric transmission, or~~
17 ~~electric distribution line, or its poles,~~ or anchors, notice to the
18 owner of such line, poles, or anchors shall be given by the
19 respective county or township officers in charge of such projects.
20 Such notice shall be given at least thirty days prior to the start
21 of any work when, because of road construction, widening, repair,
22 or grading, or for any other reason, it is necessary to relocate
23 such line, ~~or any of its poles,~~ or anchors.

24 Sec. 418. Section 86-335, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~86-335.~~ The notice required by section ~~86-334~~ 417 of
27 this act shall state the nature and location of the work to be done
28 and the date on which such work is scheduled to commence. In the

1 event of any change in the scheduled time of starting such work,
2 notice of such change shall be given as soon as practicable.

3 Sec. 419. Section 86-336, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~86-336.~~ Any owner of any telephone, ~~electric~~
6 ~~transmission, or electric distribution~~ line failing to move its
7 lines, poles, or anchors located ~~on~~ near a public highway in
8 accordance with the notice provided by section ~~86-334~~ 417 of this
9 act shall be liable to the county or township for the cost of
10 relocating such lines, ~~or any of its poles, or and~~ anchors. When
11 an owner of such facilities located on private right-of-way is
12 required to move ~~the same~~ such lines, poles, or anchors, it shall
13 be at the expense of the county or township. The county or
14 township shall be liable to the owner of any telephone, ~~electric~~
15 ~~transmission, or electric distribution~~ line for loss of use of such
16 line for failure to give the notice required by ~~the provisions of~~
17 sections ~~86-334 and 86-335~~ 417 and 418 of this act.

18 Sec. 420. Section 2-1570, Revised Statutes Supplement,
19 2000, is amended to read:

20 2-1570. To assist in the coordination and dissemination
21 of the resources of the data bank, there is hereby established a
22 technical advisory committee to the data bank. Such committee
23 shall be appointed by the Governor and shall consist of nine
24 representatives of state and federal agencies concerned with the
25 collection, interpretation, and use of basic data. The committee
26 shall report to, assist, and advise the Chief Information Officer
27 in setting information technology policy and shall provide
28 assistance as requested by the department to support the technical

1 panel created in section ~~86-1511~~ 295 of this act.

2 Sec. 421. Section 2-3917.02, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-3917.02. When a producer desires to switch to a new
5 plant, the new plant shall not accept any milk until the new plant
6 requests, either by ~~phone~~ telephone or in writing, and obtains
7 assurance from the department that the producer's milk may be
8 accepted.

9 A producer who desires to switch to a new plant while on
10 a probationary or reject status shall first request the department
11 to verify the producer's quality prior to offering milk to the new
12 plant. The new plant shall not accept any milk until acceptable
13 quality tests are obtained by the department.

14 Sec. 422. Section 9-812, Revised Statutes Supplement,
15 2001, as amended by section 1, Legislative Bill 3, Ninety-seventh
16 Legislature, First Special Session, 2001, is amended to read:

17 9-812. (1) All money received from the operation of
18 lottery games conducted pursuant to the State Lottery Act in
19 Nebraska shall be credited to the State Lottery Operation Trust
20 Fund, which fund is hereby created. All payments of expenses of
21 the operation of the lottery games shall be made from the State
22 Lottery Operation Cash Fund. In accordance with legislative
23 appropriations, money for payments for expenses of the division
24 shall be transferred from the State Lottery Operation Trust Fund to
25 the State Lottery Operation Cash Fund, which fund is hereby
26 created. All money necessary for the payment of lottery prizes
27 shall be transferred from the State Lottery Operation Trust Fund to
28 the State Lottery Prize Trust Fund, which fund is hereby created.

1 The amount used for the payment of lottery prizes shall not be less
2 than forty percent of the dollar amount of the lottery tickets
3 which have been sold. At least twenty-five percent of the dollar
4 amount of the lottery tickets which have been sold on an annualized
5 basis shall be transferred from the State Lottery Operation Trust
6 Fund to the Education Innovation Fund, the Nebraska Environmental
7 Trust Fund, and the Compulsive Gamblers Assistance Fund. Of the
8 money available to be transferred to the Education Innovation Fund,
9 the Nebraska Environmental Trust Fund, and the Compulsive Gamblers
10 Assistance Fund, the first five hundred thousand dollars shall be
11 transferred to the Compulsive Gamblers Assistance Fund to be used
12 as provided in sections 83-162.01 to 83-162.04. Thereafter,
13 forty-nine and one-half percent of the money remaining after the
14 payment of prizes and operating expenses and the initial transfer
15 to the Compulsive Gamblers Assistance Fund shall be transferred to
16 the Education Innovation Fund. Forty-nine and one-half percent of
17 the money remaining after the payment of prizes and operating
18 expenses and the initial transfer to the Compulsive Gamblers
19 Assistance Fund shall be transferred to the Nebraska Environmental
20 Trust Fund to be used as provided in the Nebraska Environmental
21 Trust Act. One percent of the money remaining after the payment of
22 prizes and operating expenses and the initial transfer to the
23 Compulsive Gamblers Assistance Fund shall be transferred to the
24 Compulsive Gamblers Assistance Fund to be used as provided in
25 sections 83-162.01 to 83-162.04.

26 (2) The Education Innovation Fund is hereby created. At
27 least seventy-five percent of the lottery proceeds allocated to the
28 Education Innovation Fund shall be available for disbursement. For

1 each fiscal year except fiscal years 2001-02 and 2002-03, the
2 Education Innovation Fund shall be allocated in the following
3 manner: Up to ten percent to fund the mentor teacher program
4 pursuant to the Quality Education Accountability Act; up to sixty
5 percent as quality education incentives pursuant to the act; up to
6 twenty percent to the Attracting Excellence to Teaching Program
7 Cash Fund to fund the Attracting Excellence to Teaching Program
8 Act; and up to ten percent of the fund shall be allocated by the
9 Governor. For fiscal years 2001-02 and 2002-03, the Education
10 Innovation Fund shall be allocated in the following manner by the
11 Excellence in Education Council: Up to one million five hundred
12 thousand dollars per fiscal year, as a distance education network
13 completion grant pursuant to section 79-1328; and, after operating
14 expenses for the Excellence in Education Council are deducted, the
15 remainder to the General Fund.

16 Allocations by the Governor shall be through incentive
17 grants to encourage the development of strategic school improvement
18 plans by school districts for accomplishing high performance
19 learning and to encourage schools to establish innovations in
20 programs or practices that result in restructuring of school
21 organization, school management, and instructional programs which
22 bring about improvement in the quality of education. Such
23 incentive grants allocated by the Governor are intended to provide
24 selected school districts, teachers or groups of teachers,
25 nonprofit educational organizations, educational service units, or
26 cooperatives funding for the allowable costs of implementing pilot
27 projects and model programs.

28 From the funds allocated by the Governor, minigrants

1 shall be available to school districts to support the development
2 of strategic school improvement plans which shall include
3 statements of purposes and goals for the districts. The plans
4 shall also include the specific statements of improvement or
5 strategic initiatives designed to improve quality learning for
6 every student.

7 In addition to the minigrants granted for the development
8 of strategic school improvement plans, school districts with annual
9 budget expenditures of three hundred fifty thousand dollars or less
10 are eligible for minigrants from the funds allocated by the
11 Governor for the purposes allowed in subdivisions (2)(a) through
12 (q) of this section. The amount of this type of minigrant shall
13 not exceed five thousand dollars. The school district shall
14 present a curriculum support plan with its application for the
15 grant. The curriculum support plan must show how the district is
16 working to achieve one or more of the allowed purposes and how the
17 grant will be used to directly advance the plan to achieve one or
18 more of these purposes. The plan must be signed by the school
19 administrator and a school board representative. The application
20 for the grant shall be brief. The Excellence in Education Council
21 shall select the recipients of this type of minigrant and shall
22 administer such minigrants.

23 From the funds allocated by the Governor, major
24 competitive grants shall be available to support innovative
25 programs which are directly related to the strategic school
26 improvement plans. The development of a strategic school
27 improvement plan by a school district shall be required before a
28 grant is awarded. Annual reports shall be made by program

1 recipients documenting the effectiveness of the program in
2 improving the quality of education as designed in the strategic
3 school improvement plans. Special consideration shall be given to
4 plans which contain public or private matching funds and
5 cooperative agreements, including agreements for in-kind services.
6 Purposes for which such major competitive grants would be offered
7 shall include:

8 (a) Professional staff development programs to provide
9 funds for teacher and administrator training and continuing
10 education to upgrade teaching and administrative skills;

11 (b) The development of strategic school improvement plans
12 by school districts;

13 (c) Educational technology assistance to public schools
14 for the purchase and operation of computers, telecommunications
15 equipment and services, and other forms of technological innovation
16 which may enhance classroom teaching, instructional management, and
17 districtwide administration. Telecommunications equipment,
18 services, and forms of technical innovation shall be approved only
19 after review by the technical panel created in section ~~86-1511~~ 295
20 of this act;

21 (d) An educational accountability program to develop an
22 educational indicators system to measure the performance and
23 outcomes of public schools and to ensure efficiency in operations;

24 (e) Alternative programs for students, including
25 underrepresented groups, at-risk students, and dropouts;

26 (f) Programs that demonstrate improvement of student
27 performance against valid national and international achievement
28 standards;

1 (g) Early childhood and parent education which emphasizes
2 child development;

3 (h) Programs using decisionmaking models that increase
4 involvement of parents, teachers, and students in school
5 management;

6 (i) Increased involvement of the community in order to
7 achieve increased confidence in and satisfaction with its schools;

8 (j) Development of magnet or model programs designed to
9 facilitate desegregation;

10 (k) Programs that address family and social issues
11 impairing the learning productivity of students;

12 (l) Programs enhancing critical and higher-order thinking
13 capabilities;

14 (m) Programs which produce the quality of education
15 necessary to guarantee a competitive work force;

16 (n) Programs designed to increase productivity of staff
17 and students through innovative use of time;

18 (o) Training programs designed to benefit teachers at all
19 levels of education by increasing their ability to work with
20 educational technology in the classroom;

21 (p) Approved accelerated or differentiated curriculum
22 programs under sections 79-1106 to 79-1108.03; and

23 (q) Programs for children from birth to age twenty-one
24 years with disabilities receiving special education under the
25 Special Education Act and children from birth to age twenty-one
26 years needing support services as defined in section 79-1125.01,
27 which programs demonstrate improved outcomes for children from
28 birth to age twenty-one years through emphasis on prevention and

1 collaborative planning.

2 The Governor shall establish the Excellence in Education
3 Council. The Governor shall appoint eleven members to the council
4 including representatives of educational organizations,
5 postsecondary educational institutions, the business community, and
6 the general public, members of school boards and parent education
7 associations, school administrators, and at least four teachers who
8 are engaged in classroom teaching. The State Department of
9 Education shall provide staff support for the council to administer
10 the Education Innovation Fund, including the Quality Education
11 Accountability Act. The council shall have the following powers
12 and duties:

13 (i) In consultation with the department, develop and
14 publish criteria for the awarding of incentive grants allocated by
15 the Governor for programs pursuant to this subsection, including
16 minigrants;

17 (ii) Provide recommendations to the Governor regarding
18 the selection of projects to be funded and the distribution and
19 duration of project funding;

20 (iii) Establish standards, formats, procedures, and
21 timelines for the successful implementation of approved programs
22 funded by incentive grants allocated by the Governor from the
23 Education Innovation Fund;

24 (iv) Assist school districts in determining the
25 effectiveness of the innovations in programs and practices and
26 measure the subsequent degree of improvement in the quality of
27 education;

28 (v) Consider the reasonable distribution of funds across

1 the state and all classes of school districts;

2 (vi) Carry out its duties pursuant to the Quality
3 Education Accountability Act; and

4 (vii) Provide annual reports to the Governor concerning
5 programs funded by the fund. Each report shall include the number
6 of applicants and approved applicants, an overview of the various
7 programs, objectives, and anticipated outcomes, and detailed
8 reports of the cost of each program.

9 To assist the council in carrying out its duties, the
10 State Board of Education shall, in consultation with the council,
11 adopt and promulgate rules and regulations establishing criteria,
12 standards, and procedures regarding the selection and
13 administration of programs funded from the Education Innovation
14 Fund, including the Quality Education Accountability Act.

15 (3) Recipients of incentive grants allocated by the
16 Governor from the Education Innovation Fund shall be required to
17 provide, upon request, such data relating to the funded programs
18 and initiatives as the Governor deems necessary.

19 (4) Any money in the State Lottery Operation Trust Fund,
20 the State Lottery Operation Cash Fund, the State Lottery Prize
21 Trust Fund, or the Education Innovation Fund available for
22 investment shall be invested by the state investment officer
23 pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act.

25 (5) Unclaimed prize money on a winning lottery ticket
26 shall be retained for a period of time prescribed by rules and
27 regulations. If no claim is made within such period, the prize
28 money shall be used at the discretion of the Tax Commissioner for

1 any of the purposes prescribed in this section.

2 Sec. 423. Section 18-419, Revised Statutes Supplement,
3 2001, is amended to read:

4 18-419. In addition to the powers authorized by sections
5 18-401 to 18-418 and any ordinances or resolutions relating to the
6 provision of electric service, any city or village owning or
7 operating electric generation or transmission facilities may sell
8 or lease its dark fiber pursuant to sections ~~86-2301 to 86-2307~~ 348
9 to 352 of this act.

10 Sec. 424. Section 86-601, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-601.~~ (1) The owner, licensee, or operator of a visual
13 or sound radio broadcasting station or network of stations, and the
14 agents or employees of any such owner, licensee, or operator, shall
15 not be liable for any damages for any defamatory statement
16 published or uttered in or as a part of a visual or sound radio
17 broadcast, by ~~one~~ any person other than such owner, licensee, or
18 operator, or an agent or employee thereof, unless it ~~shall be~~ is
19 alleged and proved by the complaining party, that such owner,
20 licensee, operator, or such agent or employee, has failed to
21 exercise due care to prevent the publication or utterance of such
22 statement in such broadcast.

23 (2) In no event shall any owner, licensee, or operator,
24 or an agent or employee thereof, be held liable for any damages for
25 any defamatory statement uttered over the facilities of the visual
26 or sound radio broadcasting station or network by any person other
27 than such owner, licensee, or operator, or an agent or employee
28 thereof, by, on behalf of, or against any candidate for public

1 office.

2 (3) In any action for damages for any defamatory
3 statement published or uttered in or as a part of a visual or sound
4 radio broadcast, the complaining party shall be allowed only such
5 actual damages as such party has alleged and proved.

6 Sec. 425. Section 86-331.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-331.01. As used in sections 86-331.01 to 86-331.04~~
9 For purposes of sections 425 to 428 of this act, unless the context
10 otherwise requires:

11 (1) Bypassing ~~shall mean~~ means the act of attaching,
12 connecting, or in any manner affixing any wire, cord, socket,
13 motor, pipe, or other instrument, device, or contrivance to the
14 utility supply system or any part of the system in such a manner as
15 to transmit, supply, or use any utility service without passing
16 through an authorized meter or other device provided for measuring,
17 registering, determining, or limiting the amount of electricity,
18 gas, or water consumed. Bypassing ~~shall also mean~~ also means the
19 act of employing any means to obtain the use or benefit of
20 electricity, gas, or water without paying for the use at the rate
21 established by the supplier of such utilities;

22 (2) Customer ~~shall mean~~ means the person responsible for
23 payment for utility services for the premises and ~~shall include~~
24 includes employees and agents of the customer;

25 (3) Person ~~shall mean~~ means any individual, firm,
26 partnership, limited liability company, corporation, company,
27 association, joint-stock association, and other legal entity;

28 (4) Tampering ~~shall mean~~ means the act of damaging,

1 altering, adjusting, or in any manner interfering with or
2 obstructing the action or operation of any meter or other device
3 provided for measuring, registering, determining, or limiting the
4 amount of electricity, gas, or water consumed;

5 (5) Unauthorized metering ~~shall mean~~ means the act of
6 removing, moving, installing, connecting, reconnecting, or
7 disconnecting any meter or metering device for utility service by a
8 person other than an authorized employee or agent of such utility;

9 (6) Utility ~~shall mean~~ means any person or entity
10 lawfully operating in whole or in part for the purpose of supplying
11 electricity, gas, water, including steam, or any combination
12 thereof, to the public or to any person;

13 (7) Utility service ~~shall mean~~ means the provision of
14 electricity, gas, steam, water, or any other service or commodity
15 furnished by the utility for compensation; and

16 (8) Utility supply system ~~shall mean and include~~ means
17 and includes all wires, conduits, pipes, cords, sockets, motors,
18 meters, instruments, load control equipment, and other devices used
19 by the utility for the purpose of providing utility services.

20 Sec. 426. Section 86-331.02, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~86-331.02.~~ (1) A utility may bring a civil action for
23 damages against any person who commits, authorizes, solicits, aids,
24 abets, or attempts (a) bypassing, (b) tampering, or (c)
25 unauthorized metering when such act results in damages to the
26 utility. A utility may bring a civil action for damages pursuant
27 to this section against any person receiving the benefit of utility
28 service through means of bypassing, tampering, or unauthorized

1 metering.

2 (2) In any civil action brought pursuant to this section,
3 the utility shall be entitled, upon proof of willful or intentional
4 bypassing, tampering, or unauthorized metering, to recover as
5 damages:

6 (a) The amount of actual damage or loss if the amount of
7 the damage or loss is susceptible of reasonable calculation; or

8 (b) Liquidated damages of ~~(i) until July 1, 1985, five~~
9 ~~hundred dollars and (ii) on July 1, 1985, and thereafter, seven~~
10 hundred fifty dollars if the amount of actual damage or loss is not
11 susceptible of reasonable calculation.

12 In addition to damage or loss under subdivision (a) or
13 (b) of this subsection, the utility may recover all reasonable
14 expenses and costs incurred on account of the bypassing, tampering,
15 or unauthorized metering including, but not limited to,
16 disconnection, reconnection, service calls, equipment, costs of the
17 suit, and reasonable attorneys' fees in cases within the scope of
18 section 25-1801.

19 Sec. 427. Section 86-331.03, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-331.03.~~ (1) There shall be a rebuttable presumption
22 that a tenant or occupant at any premises where bypassing,
23 tampering, or unauthorized metering is proven to exist caused or
24 had knowledge of such bypassing, tampering, or unauthorized
25 metering if the tenant or occupant (a) had access to the part of
26 the utility supply system on the premises where the bypassing,
27 tampering, or unauthorized metering is proven to exist and (b) was
28 responsible or partially responsible for payment, either directly

1 or indirectly, to the utility or to any other person for utility
2 services to the premises.

3 (2) There shall be a rebuttable presumption that a
4 customer at any premises where bypassing, tampering, or
5 unauthorized metering is proven to exist caused or had knowledge of
6 such bypassing, tampering, or unauthorized metering if the customer
7 controlled access to the part of the utility supply system on the
8 premises where the bypassing, tampering, or unauthorized metering
9 was proven to exist.

10 Sec. 428. Section 86-331.04, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-331.04.~~ The remedies provided by sections ~~86-331.01~~
13 ~~to 86-331.04~~ 425 to 428 of this act shall be deemed to be
14 supplemental and additional to powers conferred by existing laws.
15 The and the remedies provided in sections 86-331.01 to 86-331.04
16 425 to 428 of this act are in addition to and not in limitation of
17 any other civil or criminal statutory or common-law remedies.

18 Sec. 429. Section 25-2503, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 25-2503. Any agency which proposes to acquire private
21 property for a public purpose shall give notice of such proposed
22 acquisition at least forty-five days before beginning negotiations
23 for such acquisition. The notice shall be directed to each owner
24 of property over or across which any right or interest is to be
25 acquired, and shall be deemed properly given if delivered
26 personally or mailed by registered or certified mail addressed to
27 the property owner and to the address shown on the tax records in
28 the office of the county treasurer, except + PROVIDED, that such

1 notice shall be sufficient if given to the administrator or
2 executor of the estate of a deceased person, the trustee of a trust
3 estate, the guardian of the estate of a minor or incompetent
4 person, or a conservator. The notice shall (1) describe the
5 property proposed to be acquired and the compensation to be given
6 for such property, (2) include a statement of the authority for the
7 acquisition, (3) include the nature of and necessity and purpose
8 for which the land shall be used, (4) include the title, right, or
9 interest in the property to be acquired, (5) specify the amount of
10 property needed for the public purpose, (6) include the reasons for
11 selecting the proposed location or route, and (7) state that if
12 approval of any other agency is required, the condemner shall set
13 forth which other agency's approval shall be necessary and, when
14 the acquisition involves a highway, power line, ~~phone~~ telephone
15 line, or similar project, shall include a map showing the proposed
16 route to be followed by the project.

17 Sec. 430. Section 25-2602.01, Revised Statutes
18 Supplement, 2000, is amended to read:

19 25-2602.01. (a) A written agreement to submit any
20 existing controversy to arbitration is valid, enforceable, and
21 irrevocable except upon such grounds as exist at law or in equity
22 for the revocation of any contract.

23 (b) A provision in a written contract to submit to
24 arbitration any controversy thereafter arising between the parties
25 is valid, enforceable, and irrevocable, except upon such grounds as
26 exist at law or in equity for the revocation of any contract, if
27 the provision is entered into voluntarily and willingly.

28 (c) The Uniform Arbitration Act applies to arbitration

1 agreements between employers and employees or between their
2 respective representatives.

3 (d) Contract provisions agreed to by the parties to a
4 contract control over contrary provisions of the act other than
5 subsections (e) and (f) of this section.

6 (e) Subsections (a) and (b) of this section do not apply
7 to a claim for workers' compensation.

8 (f) Subsection (b) of this section does not apply to:

9 (1) A claim arising out of personal injury based on tort;

10 (2) A claim under the Nebraska Fair Employment Practice
11 Act;

12 (3) Any agreement between parties covered by sections
13 60-1401.01 to 60-1440; and

14 (4) Except as provided in section 44-811, any agreement
15 concerning or relating to an insurance policy other than a contract
16 between insurance companies including a reinsurance contract.

17 (g) When a conflict exists, the Uniform Arbitration Act
18 shall not apply to the Uniform Act on Interstate Arbitration and
19 Compromise of Death Taxes, sections 44-811, 44-4824, 54-404 to
20 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329, and ~~86-408 to~~
21 ~~86-410 and the Uniform Act on Interstate Arbitration and Compromise~~
22 ~~of Death Taxes~~ sections 362 to 364 of this act.

23 Sec. 431. Section 28-401, Revised Statutes Supplement,
24 2001, is amended to read:

25 28-401. As used in the Uniform Controlled Substances
26 Act, unless the context otherwise requires:

27 (1) Administer shall mean to directly apply a controlled
28 substance by injection, inhalation, ingestion, or any other means

1 to the body of a patient or research subject;

2 (2) Agent shall mean an authorized person who acts on
3 behalf of or at the direction of another person but shall not
4 include a common or contract carrier, public warehouse keeper, or
5 employee of a carrier or warehouse keeper;

6 (3) Administration shall mean the Drug Enforcement
7 Administration, United States Department of Justice;

8 (4) Controlled substance shall mean a drug, biological,
9 substance, or immediate precursor in Schedules I to V of section
10 28-405. Controlled substance shall not include distilled spirits,
11 wine, malt beverages, tobacco, or any nonnarcotic substance if such
12 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
13 U.S.C. 301 et seq., as such act existed on May 1, 2001, and the law
14 of this state, be lawfully sold over the counter without a
15 prescription;

16 (5) Counterfeit substance shall mean a controlled
17 substance which, or the container or labeling of which, without
18 authorization, bears the trademark, trade name, or other
19 identifying mark, imprint, number, or device, or any likeness
20 thereof, of a manufacturer, distributor, or dispenser other than
21 the person or persons who in fact manufactured, distributed, or
22 dispensed such substance and which thereby falsely purports or is
23 represented to be the product of, or to have been distributed by,
24 such other manufacturer, distributor, or dispenser;

25 (6) Department shall mean the Department of Health and
26 Human Services Regulation and Licensure;

27 (7) Division of Drug Control shall mean the personnel of
28 the Nebraska State Patrol who are assigned to enforce the Uniform

1 Controlled Substances Act;

2 (8) Dispense shall mean to deliver a controlled substance
3 to an ultimate user or a research subject pursuant to a medical
4 order issued by a practitioner authorized to prescribe, including
5 the packaging, labeling, or compounding necessary to prepare the
6 controlled substance for such delivery;

7 (9) Distribute shall mean to deliver other than by
8 administering or dispensing a controlled substance;

9 (10) Prescribe shall mean to issue a medical order;

10 (11) Drug shall mean (a) articles recognized in the
11 official United States Pharmacopoeia, official Homeopathic
12 Pharmacopoeia of the United States, official National Formulary, or
13 any supplement to any of them, (b) substances intended for use in
14 the diagnosis, cure, mitigation, treatment, or prevention of
15 disease in human beings or animals, and (c) substances intended for
16 use as a component of any article specified in subdivision (a) or
17 (b) of this subdivision, but shall not include devices or their
18 components, parts, or accessories;

19 (12) Deliver or delivery shall mean the actual,
20 constructive, or attempted transfer from one person to another of a
21 controlled substance, whether or not there is an agency
22 relationship;

23 (13) Marijuana shall mean all parts of the plant of the
24 genus cannabis, whether growing or not, the seeds thereof, and
25 every compound, manufacture, salt, derivative, mixture, or
26 preparation of such plant or its seeds, but shall not include the
27 mature stalks of such plant, hashish, tetrahydrocannabinols
28 extracted or isolated from the plant, fiber produced from such

1 stalks, oil or cake made from the seeds of such plant, any other
2 compound, manufacture, salt, derivative, mixture, or preparation of
3 such mature stalks, or the sterilized seed of such plant which is
4 incapable of germination. When the weight of marijuana is referred
5 to in the Uniform Controlled Substances Act, it shall mean its
6 weight at or about the time it is seized or otherwise comes into
7 the possession of law enforcement authorities, whether cured or
8 uncured at that time;

9 (14) Manufacture shall mean the production, preparation,
10 propagation, compounding, or processing of a controlled substance,
11 either directly or indirectly by extraction from substances of
12 natural origin, independently by means of chemical synthesis, or by
13 a combination of extraction and chemical synthesis, and shall
14 include any packaging or repackaging of the substance or labeling
15 or relabeling of its container, except that manufacture shall not
16 include the preparation or compounding of a controlled substance by
17 an individual for his or her own use or the preparation,
18 compounding, packaging, or labeling of a controlled substance: (a)
19 By a practitioner as an incident to his or her prescribing,
20 administering, or dispensing of a controlled substance in the
21 course of his or her professional practice; or (b) by a
22 practitioner, or by his or her authorized agent under his or her
23 supervision, for the purpose of, or as an incident to, research,
24 teaching, or chemical analysis and not for sale;

25 (15) Narcotic drug shall mean any of the following,
26 whether produced directly or indirectly by extraction from
27 substances of vegetable origin, independently by means of chemical
28 synthesis, or by a combination of extraction and chemical

1 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and
2 opiates; (b) a compound, manufacture, salt, derivative, or
3 preparation of opium, coca leaves, or opiates; or (c) a substance
4 and any compound, manufacture, salt, derivative, or preparation
5 thereof which is chemically equivalent to or identical with any of
6 the substances referred to in subdivisions (a) and (b) of this
7 subdivision, except that the words narcotic drug as used in the
8 Uniform Controlled Substances Act shall not include decocainized
9 coca leaves or extracts of coca leaves, which extracts do not
10 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

11 (16) Opiate shall mean any substance having an
12 addiction-forming or addiction-sustaining liability similar to
13 morphine or being capable of conversion into a drug having such
14 addiction-forming or addiction-sustaining liability. Opiate shall
15 not include the dextrorotatory isomer of 3-methoxy-n
16 methylmorphinan and its salts. Opiate shall include its racemic
17 and levorotatory forms;

18 (17) Opium poppy shall mean the plant of the species
19 *Papaver somniferum* L., except the seeds thereof;

20 (18) Poppy straw shall mean all parts, except the seeds,
21 of the opium poppy after mowing;

22 (19) Person shall mean any corporation, association,
23 partnership, limited liability company, or one or more individuals;

24 (20) Practitioner shall mean a physician, physician
25 assistant, dentist, veterinarian, pharmacist, podiatrist,
26 optometrist, certified nurse midwife, advanced practice registered
27 nurse, certified registered nurse anesthetist, scientific
28 investigator, pharmacy, hospital, or any other person licensed,

1 registered, or otherwise permitted to distribute, dispense,
2 prescribe, conduct research with respect to, or administer a
3 controlled substance in the course of practice or research in this
4 state, including an emergency medical service as defined in section
5 71-5175;

6 (21) Production shall include the manufacture, planting,
7 cultivation, or harvesting of a controlled substance;

8 (22) Immediate precursor shall mean a substance which is
9 the principal compound commonly used or produced primarily for use
10 and which is an immediate chemical intermediary used or likely to
11 be used in the manufacture of a controlled substance, the control
12 of which is necessary to prevent, curtail, or limit such
13 manufacture;

14 (23) State shall mean the State of Nebraska;

15 (24) Ultimate user shall mean a person who lawfully
16 possesses a controlled substance for his or her own use, for the
17 use of a member of his or her household, or for administration to
18 an animal owned by him or her or by a member of his or her
19 household;

20 (25) Hospital shall have the same meaning as in section
21 71-419;

22 (26) Cooperating individual shall mean any person, other
23 than a commissioned law enforcement officer, who acts on behalf of,
24 at the request of, or as agent for a law enforcement agency for the
25 purpose of gathering or obtaining evidence of offenses punishable
26 under the Uniform Controlled Substances Act;

27 (27) Hashish or concentrated cannabis shall mean: (a)
28 The separated resin, whether crude or purified, obtained from a

1 plant of the genus cannabis; or (b) any material, preparation,
2 mixture, compound, or other substance which contains ten percent or
3 more by weight of tetrahydrocannabinols;

4 (28) Exceptionally hazardous drug shall mean (a) a
5 narcotic drug, (b) thiophene analog of phencyclidine, (c)
6 phencyclidine, (d) amobarbital, (e) secobarbital, or (f)
7 pentobarbital;

8 (29) Imitation controlled substance shall mean a
9 substance which is not a controlled substance but which, by way of
10 express or implied representations and consideration of other
11 relevant factors including those specified in section 28-445, would
12 lead a reasonable person to believe the substance is a controlled
13 substance. A placebo or registered investigational drug
14 manufactured, distributed, possessed, or delivered in the ordinary
15 course of practice or research by a health care professional shall
16 not be deemed to be an imitation controlled substance;

17 (30) (a) Controlled substance analogue shall mean a
18 substance (i) the chemical structure of which is substantially
19 similar to the chemical structure of a Schedule I or Schedule II
20 controlled substance as provided in section 28-405 or (ii) which
21 has a stimulant, depressant, analgesic, or hallucinogenic effect on
22 the central nervous system that is substantially similar to or
23 greater than the stimulant, depressant, analgesic, or
24 hallucinogenic effect on the central nervous system of a Schedule I
25 or Schedule II controlled substance as provided in section 28-405.
26 A controlled substance analogue shall, to the extent intended for
27 human consumption, be treated as a controlled substance under
28 Schedule I of section 28-405 for purposes of the Uniform Controlled

1 Substances Act; and

2 (b) Controlled substance analogue shall not include (i) a
3 controlled substance, (ii) any substance generally recognized as
4 safe and effective within the meaning of the Federal Food, Drug,
5 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on May
6 1, 2001, (iii) any substance for which there is an approved new
7 drug application, or (iv) with respect to a particular person, any
8 substance if an exemption is in effect for investigational use for
9 that person, under section 505 of the Federal Food, Drug, and
10 Cosmetic Act, 21 U.S.C. 355, as such section existed on May 1,
11 2001, to the extent conduct with respect to such substance is
12 pursuant to such exemption;

13 (31) Anabolic steroid shall mean any drug or hormonal
14 substance, chemically and pharmacologically related to testosterone
15 (other than estrogens, progestins, and corticosteroids), that
16 promotes muscle growth and includes any controlled substance in
17 Schedule III(d) of section 28-405. Anabolic steroid shall not
18 include any anabolic steroid which is expressly intended for
19 administration through implants to cattle or other nonhuman species
20 and has been approved by the Secretary of Health and Human Services
21 for such administration, but if any person prescribes, dispenses,
22 or distributes such a steroid for human use, such person shall be
23 considered to have prescribed, dispensed, or distributed an
24 anabolic steroid within the meaning of this subdivision;

25 (32) Chart order shall mean an order for a controlled
26 substance issued by a practitioner for a patient who is in the
27 hospital where the chart is stored or for a patient receiving
28 detoxification treatment or maintenance treatment pursuant to

1 section 28-412. Chart order shall not include a prescription;

2 (33) Medical order shall mean a prescription, a chart
3 order, or an order for pharmaceutical care issued by a
4 practitioner;

5 (34) Prescription shall mean an order for a controlled
6 substance issued by a practitioner. Prescription shall not include
7 a chart order;

8 (35) Registrant shall mean any person who has a
9 controlled substances registration issued by the state or the
10 administration;

11 (36) Reverse distributor shall mean a person whose
12 primary function is to act as an agent for a pharmacy, wholesaler,
13 manufacturer, or other entity by receiving, inventorying, and
14 managing the disposition of outdated, expired, or otherwise
15 nonsaleable controlled substances; and

16 (37) Signature shall mean the name, word, or mark of a
17 person written in his or her own hand with the intent to
18 authenticate a writing or other form of communication or a digital
19 signature which complies with section ~~86-1701~~ 377 of this act.

20 Sec. 432. Section 86-329, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~86-329.~~ (1) ~~Any person who connects~~ It is unlawful for
23 any person to connect any instrument, device, or contrivance with
24 any wire supplying or intended to supply electricity or electric
25 current or ~~connects~~ to connect any pipe or conduit supplying gas or
26 water, without the knowledge and consent of the supplier of such
27 products, in such manner that any portion thereof may be supplied
28 to any instrument by or at which electricity, electric current,

1 gas, or water may be consumed without passing through the meter
2 provided for measuring or registering the amount or quantity
3 thereof passing through it. It is unlawful for ~~and~~ any person
4 ~~who to~~ knowingly ~~uses~~ use or knowingly ~~permits~~ permit the use of
5 electricity, electric current, gas, or water obtained ~~in the~~
6 ~~above-mentioned unauthorized ways,~~ shall be deemed guilty of a
7 ~~Class III misdemeanor~~ unlawfully pursuant to this section.

8 (2) ~~When~~ If electrical, gas, or water service ~~has been~~ is
9 disconnected pursuant to sections 70-1601 to 70-1615, it is
10 unlawful for any person ~~who reconnects~~ to reconnect such service
11 without the knowledge and consent of the supplier of such service.
12 ~~shall be deemed guilty of a Class III misdemeanor.~~

13 (3) A violation of this section is a Class III
14 misdemeanor.

15 Sec. 433. Section 86-330, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~86-330. Any person who willfully injures, alters~~ It is
18 unlawful for any person to willfully injure, alter, or by any
19 instrument, device, or contrivance in any manner ~~interferes~~
20 interfere with or ~~obstructs~~ obstruct the action or operation of any
21 meter made or provided for measuring or registering the amount or
22 quantity of electricity, gas, or water passing through it, without
23 the knowledge and consent of the person, ~~partnership,~~ limited
24 ~~liability company, corporation, or company~~ furnishing or supplying
25 the electricity, electric current, gas, or water passing or
26 intended to pass through such meter. A violation of this section
27 is a Class III misdemeanor. ~~and~~ shall be deemed guilty of a
28 ~~misdemeanor and upon conviction shall be punished as provided in~~

1 ~~section 86-329.~~

2 Sec. 434. Section 86-331, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-331.~~ Proof of the existence of any wire, pipe, or
5 conduit connection or reconnection or of any injury, alteration, or
6 obstruction of a meter, as provided in sections ~~86-329 and 86-330,~~
7 ~~shall be taken as~~ 432 and 433 of this act is prima facie evidence
8 of the guilt of the person in possession of the premises where such
9 connection, reconnection, injury, alteration, or obstruction is
10 proved to exist.

11 Sec. 435. Section 28-711, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 28-711. (1) When any physician, medical institution,
14 nurse, school employee, social worker, or other person has
15 reasonable cause to believe that a child has been subjected to
16 abuse or neglect or observes such child being subjected to
17 conditions or circumstances which reasonably would result in abuse
18 or neglect, he or she shall report such incident or cause a report
19 to be made to the proper law enforcement agency or to the
20 department on the toll-free number established by subsection (2) of
21 this section. Such report may be made orally by telephone with the
22 caller giving his or her name and address, shall be followed by a
23 written report, and to the extent available shall contain the
24 address and age of the abused or neglected child, the address of
25 the person or persons having custody of the abused or neglected
26 child, the nature and extent of the abuse or neglect or the
27 conditions and circumstances which would reasonably result in such
28 abuse or neglect, any evidence of previous abuse or neglect

1 including the nature and extent, and any other information which in
2 the opinion of the person may be helpful in establishing the cause
3 of such abuse or neglect and the identity of the perpetrator or
4 perpetrators. Law enforcement agencies receiving any reports of
5 abuse or neglect under this subsection shall notify the state
6 central registry on the next working day by ~~phone~~ telephone or
7 mail.

8 (2) The department shall establish a statewide toll-free
9 number to be used by any person any hour of the day or night, any
10 day of the week, to make reports of abuse or neglect. Reports of
11 abuse or neglect not previously made to or by a law enforcement
12 agency shall be made immediately to such agency by the department.

13 Sec. 436. Section 28-1310, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-1310. (1) A person commits the offense of
16 intimidation by ~~phone~~ telephone call if, with intent to terrify,
17 intimidate, threaten, harass, annoy, or offend, ~~he~~ the person:

18 (a) Telephones another anonymously, whether or not
19 conversation ensues, and disturbs the peace, quiet, and right of
20 privacy of any person at the place where the calls are received; or

21 (b) Telephones another and uses indecent, lewd,
22 lascivious, or obscene language or suggests any indecent, lewd, or
23 lascivious act; or

24 (c) Telephones another and threatens to inflict injury to
25 any person or to the property of any person; or

26 (d) Intentionally fails to disengage the connection; or

27 (e) Telephones another and attempts to extort money or
28 other thing of value from any person.

1 (2) The use of indecent, lewd, or obscene language or the
2 making of a threat or lewd suggestion shall be prima facie evidence
3 of intent to terrify, intimidate, threaten, harass, annoy, or
4 offend.

5 (3) The offense shall be deemed to have been committed
6 either at the place where the call was made or where it was
7 received.

8 (4) Intimidation by ~~phone~~ telephone call is a Class III
9 misdemeanor.

10 Sec. 437. Section 86-337, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~86-337.~~ Administrators and executors of the estates of
13 deceased persons, trustees of trust estates, the guardians of
14 estates of minors and incompetent persons, and conservators ~~are~~
15 ~~hereby authorized to~~ may execute easements, licenses, and other
16 contracts with public power districts, electric membership
17 associations, cooperative corporations, individuals, partnerships,
18 limited liability companies, or corporations for the construction,
19 operation, and maintenance of electric generation, transmission, or
20 distribution facilities or facilities for the transmission or
21 distribution of communications upon such terms and conditions as
22 the administrators, executors, trustees, guardians, or conservators
23 of such persons ~~may~~ deem reasonable and equitable, and for the best
24 interests of the estates of deceased persons, minors, incompetents,
25 and ~~the~~ beneficiaries of a trust.

26 Sec. 438. Section 86-338, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~86-338.~~ ~~Such easements~~ Easements and contracts

1 authorized in section 437 of this act shall be entered into by
2 administrators, executors, trustees, guardians, and conservators
3 only upon compliance with and upon securing the approval of the
4 county court of the county where the real estate is located in the
5 manner provided in section 57-402, pertaining to oil and gas
6 pipeline easements.

7 Sec. 439. Section 43-158, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-158. When the department determines that an adoption
10 involving exchange of information would serve a child's best
11 interests, it may enter into agreements with the child's proposed
12 adoptive parent or parents for the exchange of information. The
13 nature of the information promised to be provided shall be
14 specified in an exchange-of-information contract and may include,
15 but shall not be limited to, letters by the adoptive parent or
16 parents at specified intervals providing information regarding the
17 child's development or photographs of the child at specified
18 intervals. Any agreement shall provide that the biological parent
19 or parents keep the department informed of any change in address or
20 ~~phone~~ telephone number and may include provision for communication
21 by the biological parent or parents indirectly through the
22 department or directly to the adoptive parent or parents. Nothing
23 in sections 43-155 to 43-160 shall be interpreted to preclude or
24 allow visitation between the biological parent or parents and the
25 child.

26 Sec. 440. Section 49-14,141, Revised Statutes
27 Supplement, 2000, is amended to read:

28 49-14,141. The commission may adopt procedures for the

1 digital and electronic filing of any report or statement required
2 by the Nebraska Political Accountability and Disclosure Act. Any
3 procedures for digital filing shall comply with the provisions of
4 section ~~86-1701~~ 377 of this act. The commission may adopt
5 authentication procedures to be used as a verification process for
6 statements or reports filed digitally or electronically.
7 Compliance with authentication procedures adopted by the commission
8 shall have the same validity as a signature on any report,
9 statement, or verification statement.

10 Sec. 441. Section 52-1307, Revised Statutes Supplement,
11 2000, is amended to read:

12 52-1307. Effective financing statement means a statement
13 that:

- 14 (1) Is an original or reproduced copy thereof;
- 15 (2) Is signed and filed by the secured party in the
16 office of the Secretary of State;
- 17 (3) Is signed by the debtor, unless filed electronically,
18 in which case the signature of the debtor shall not be required;
- 19 (4) Contains (a) the name and address of the secured
20 party, (b) the name and address of the debtor, (c) the social
21 security number of the debtor or, in the case of a debtor doing
22 business other than as an individual, the Internal Revenue Service
23 taxpayer identification number of such debtor, (d) a description of
24 the farm products subject to the security interest, (e) each county
25 in Nebraska where the farm product is used or produced or to be
26 used or produced, (f) crop year unless every crop of the farm
27 product in question, for the duration of the effective financing
28 statement, is to be subject to the particular security interest,

1 (g) further details of the farm product subject to the security
2 interest if needed to distinguish it from other quantities of such
3 product owned by the same person or persons but not subject to the
4 particular security interest, and (h) such other information that
5 the Secretary of State may require to comply with section 1324 of
6 the Food Security Act of 1985, Public Law 99-198, or to more
7 efficiently carry out his or her duties under sections 52-1301 to
8 52-1321;

9 (5) Shall be amended in writing, within three months,
10 similarly signed and filed, to reflect material changes;

11 (6) Remains effective for a period of five years from the
12 date of filing, subject to extensions for additional periods of
13 five years each by refiling or filing a continuation statement
14 within six months before the expiration of the five-year period;

15 (7) Lapses on either the expiration of the effective
16 period of the statement or the filing of a notice signed by the
17 secured party that the statement is terminated, whichever occurs
18 first;

19 (8) Is accompanied by the requisite filing fee set by
20 section 52-1313; and

21 (9) Substantially complies with the requirements of this
22 section even though it contains minor errors that are not seriously
23 misleading.

24 An effective financing statement may, for any given
25 debtor or debtors, cover more than one farm product located in more
26 than one county.

27 Any effective financing statement that is filed
28 electronically shall include an electronic signature of the secured

1 party which may consist of a signature recognized under section
2 ~~86-1701~~ 377 of this act or an access code or any other identifying
3 word or number assigned by the Secretary of State that is unique to
4 a particular filer.

5 Sec. 442. Section 52-1314, Revised Statutes Supplement,
6 2000, is amended to read:

7 52-1314. (1) A continuation statement may be filed by
8 the secured party within six months prior to the expiration of the
9 five-year period specified in subdivision (6) of section 52-1307.
10 Any such continuation statement shall be signed by the secured
11 party, identify the original statement by file number, and state
12 that the original statement is still effective. Upon timely filing
13 of the continuation statement, the effectiveness of the original
14 statement shall be continued for five years after the last date to
15 which the filing was effective whereupon it shall lapse unless
16 another continuation statement is filed prior to such lapse. If an
17 effective financing statement exists at the time insolvency
18 proceedings are commenced by or against the debtor, the effective
19 financing statement shall remain effective until termination of the
20 insolvency proceedings and thereafter for a period of sixty days or
21 until the expiration of the five-year period, whichever occurs
22 later. Succeeding continuation statements may be filed in the same
23 manner to continue the effectiveness of the original statement.

24 (2) Any continuation statement that is filed
25 electronically shall include an electronic signature of the secured
26 party which may consist of a signature recognized under section
27 ~~86-1701~~ 377 of this act or an access code or any other identifying
28 word or number assigned by the Secretary of State that is unique to

1 a particular filer.

2 Sec. 443. Section 86-502, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~86-502.~~ (1) Each ~~and every~~ express company engaged in
5 the business of receiving and transporting freight in this state
6 shall, when ~~any~~ livestock is entrusted to its care for shipment or
7 transportation, exercise due care and diligence in protecting such
8 livestock from all inclement weather during the period of such
9 shipment. All such express companies shall ~~make provision~~ provide
10 for the proper housing of any ~~and all~~ livestock, whether crated or
11 uncrated, entrusted to its care at any point where such express
12 company receives freight to be shipped to other points, or at any
13 point where such express company receives freight transported from
14 other points.

15 (2) Any violation of this section is a Class V
16 misdemeanor.

17 Sec. 444. Section 70-301, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 70-301. Any public power district, corporation, or
20 municipality that is now or may hereafter be engaged in the
21 generation or transmission, or both, of electric energy for sale to
22 the public for light and power purposes or the production or
23 distribution, or both, of ethanol for use as fuel may acquire
24 right-of-way over and upon lands, except railroad right-of-way and
25 depot grounds, for the construction of pole lines or underground
26 lines necessary for the conduct of such business and for the
27 placing of all poles and constructions for the necessary adjuncts
28 thereto, in the same manner as railroad corporations may acquire

1 right-of-way for the construction of railroads. Such district,
2 corporation, or municipality shall give public notice of the
3 proposed location of such pole lines or underground lines with a
4 voltage capacity of thirty-four thousand five hundred volts or more
5 which involves the acquisition of rights or interests in more than
6 ten separately owned tracts by causing to be published a map
7 showing the proposed line route in a legal newspaper of general
8 circulation within the county where such line is to be constructed
9 at least thirty days before negotiating with any person, firm, or
10 corporation to acquire easements or property for such purposes and
11 shall consider all objections which may be filed to such location.
12 After securing approval from the Public Service Commission and
13 having complied with sections ~~86-301 to 86-331~~ 413 to 416 and 445
14 to 450 of this act, such public power districts, corporations, and
15 municipalities shall have the right to condemn a right-of-way over
16 and across railroad right-of-way and depot grounds for the purpose
17 of crossing the same. The procedure to condemn property shall be
18 exercised in the manner set forth in sections 76-704 to 76-724.

19 Sec. 445. Section 86-305, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~86-305. All persons, associations, and corporations~~ Any
22 person engaged in the generating or transmitting of electric
23 current for sale, use, or purchase in the state for power or other
24 purposes, ~~are hereby~~ is granted the right-of-way for all necessary
25 poles and wires along, within, and across any of the public
26 highways of this state. Such ~~persons, associations, or~~
27 ~~corporations shall be~~ person is liable for all damages to private
28 property by reason of the use of the public highways for such

1 purpose. Such damages shall be ascertained and determined in the
2 manner set forth in sections 76-704 to 76-724.

3 Sec. 446. Section 86-306, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~86-306. All such wires~~ Any electric wire shall be placed
6 at least eighteen feet above all road crossings. Any electric ~~7~~
7 ~~and all such~~ poles and wires shall be so placed as not to interfere
8 with the public use of ~~any of~~ such highways, and if ~~whenever~~
9 practicable, the poles shall be set upon the line of such highways.
10 ~~Where such persons, associations, or corporations seek to carry one~~
11 ~~or more of such wires~~ If any person engaged in generating and
12 transmitting electric current for power or other purposes by means
13 of wires seeks to construct an electric wire over and across the
14 any railroad track or tracks, telegraph wires, or right-of-way
15 rights-of-way of any railroad company in this state, where the same
16 and the electric wire intersects and crosses streets, highways,
17 alleys, and other public thoroughfares, or elsewhere, such persons,
18 ~~associations, or corporations~~ person shall first endeavor to agree
19 by a contract as to the manner and kind of crossing to be
20 constructed, which ~~in no case~~ shall not be less than twenty-seven
21 feet above the top of the rails of any railroad tracks, and the
22 compensation, if any, to be awarded as damages. If no ~~agreement~~
23 ~~can be had~~ contract is formed with any ~~such~~ railroad company as to
24 the manner and kind of crossing, or compensation to be awarded,
25 then such ~~persons, associations, or corporations~~ person may proceed
26 to have the ~~same matter~~ ascertained and determined in the manner as
27 set forth in sections 76-704 to 76-724.

28 Sec. 447. Section 86-307, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~86-307.~~ If any ~~such~~ Any person ~~or persons,~~ associations
3 ~~or corporations,~~ so engaged in generating and transmitting electric
4 current for power or other purposes by means of wires, ~~shall~~
5 ~~construct or place the same~~ constructs or crosses electric wires
6 over the railroad tracks, telegraph wires, or ~~right-of-way~~
7 rights-of-way of any railroad company without having first complied
8 with the provisions of section ~~86-306,~~ such person or persons,
9 ~~associations or corporations,~~ upon conviction thereof shall be
10 punished by a fine of not exceeding five hundred dollars 446 of
11 this act is guilty of a Class IV misdemeanor.

12 Sec. 448. Section 86-308, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~86-308.~~ Nothing contained in section ~~86-305~~ shall
15 Section 445 of this act shall not be construed to grant any rights
16 within the corporate limits of any village or city in this state.

17 Sec. 449. Section 86-308.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~86-308.01.~~ If the public road, along, upon, across, or
20 under which the right to construct, operate, and maintain the
21 electrical transmission line is granted, is a state or federal
22 highway, then the location and installation of the electrical
23 transmission facilities, insofar as they pertain to the present and
24 future use of the rights-of-way for highway purposes, shall be
25 subject to ~~such~~ reasonable regulations and restrictions ~~as are or~~
26 ~~may be~~ prescribed by the Department of Roads. If the future use of
27 ~~said the~~ state or federal highway requires the moving or relocating
28 of ~~said the~~ facilities, then such facilities shall be removed or

1 relocated by the owner, at the owner's cost and expense, and as
2 directed by the Department of Roads except as provided by ~~the~~
3 ~~provisions of~~ section 39-1304.02.

4 Sec. 450. Section 86-309, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~86-309.~~ Any person who ~~shall~~ willfully and maliciously
7 ~~break, injure, remove or otherwise interfere~~ breaks, injures,
8 removes, or otherwise interferes with any ~~of such~~ electric poles or
9 wires ~~of any of such persons, associations or corporations shall~~
10 ~~upon conviction thereof be punished by a fine not exceeding five~~
11 ~~hundred dollars or by imprisonment in the county jail not exceeding~~
12 ~~three months, or by both~~ is guilty of a Class IV misdemeanor.

13 Sec. 451. Whenever any county or township road
14 construction, widening, repair, or grading project requires, or can
15 reasonably be expected to require, the performance of any work
16 within six feet of any electric transmission or electric
17 distribution line, poles, or anchors, notice to the owner of such
18 line, poles, or anchors shall be given by the respective county or
19 township officers in charge of such projects. Such notice shall be
20 given at least thirty days prior to the start of any work when,
21 because of road construction, widening, repair, or grading, or for
22 any other reason, it is necessary to relocate such line, poles, or
23 anchors.

24 Sec. 452. The notice required by section 451 of this act
25 shall state the nature and location of the work to be done and the
26 date on which such work is scheduled to commence. In the event of
27 any change in the scheduled time of starting such work, notice of
28 such change shall be given as soon as practicable.

1 Sec. 453. Any owner of any electric transmission or
2 electric distribution line failing to move its lines, poles, or
3 anchors located near a public highway in accordance with the notice
4 provided by section 451 of this act shall be liable to the county
5 or township for the cost of relocating such lines, poles, and
6 anchors. When an owner of such facilities located on private
7 right-of-way is required to move such lines, poles, or anchors, it
8 shall be at the expense of the county or township. The county or
9 township shall be liable to the owner of any electric transmission
10 or electric distribution line for loss of use of such line for
11 failure to give the notice required by sections 451 and 452 of this
12 act.

13 Sec. 454. Section 70-625, Revised Statutes Supplement,
14 2001, is amended to read:

15 70-625. (1) Subject to the limitations of the petition
16 for its creation and all amendments to such petition, a public
17 power district has all the usual powers of a corporation for public
18 purposes and may purchase, hold, sell, and lease personal property
19 and real property reasonably necessary for the conduct of its
20 business. No district may sell household appliances at retail if
21 the retail price of any such appliance exceeds fifty dollars,
22 except that newly developed electrical appliances may be
23 merchandised and sold during the period of time in which any such
24 appliances are being introduced to the public. New models of
25 existing appliances shall not be deemed to be newly developed
26 appliances. An electrical appliance shall be considered to be in
27 such introductory period of time until the particular type of
28 appliance is used by twenty-five percent of all the electrical

1 customers served by such district, but such period shall in no
2 event exceed five years from the date of introduction by the
3 manufacturer of the new appliance to the local market.

4 (2) In addition to its powers authorized by Chapter 70
5 and specified in its petition for creation, as amended, a public
6 power district may sell, lease, and service satellite television
7 signal descrambling or decoding devices, satellite television
8 programming, and equipment and services associated with such
9 devices and programming, except that this section does not
10 authorize public power districts (a) to provide signal descrambling
11 or decoding devices or satellite programming to any location (i)
12 being furnished such devices or programming on April 24, 1987, or
13 (ii) where community antenna television service is available from
14 any person, firm, or corporation holding a franchise pursuant to
15 sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383
16 to 23-388 on April 24, 1987, or (b) to sell, service, or lease
17 C-band satellite dish systems or repair parts.

18 (3) In addition to the powers authorized by Chapter 70
19 and specified in its petition for creation as amended, the board of
20 directors of a public power district may apply for and use funds
21 available from the United States Department of Agriculture or other
22 federal agencies for grants or loans to promote economic
23 development and job creation projects in rural areas as permitted
24 under the rules and regulations of the federal agency from which
25 the funds are received. Any loan to be made by a district shall
26 only be made in participation with a bank pursuant to a contract.
27 The district and the participating bank shall determine the terms
28 and conditions of the contract. In addition, in rural areas of the

1 district, the board of directors of such district may provide
2 technical or management assistance to prospective, new, or
3 expanding businesses, including home-based businesses, provide
4 assistance to a local or regional industrial or economic
5 development corporation or foundation located within or contiguous
6 to the district's service area, and provide youth and adult
7 community leadership training.

8 (4) In addition to the powers authorized by Chapter 70
9 and specified in its petition for creation as amended, a public
10 power district may sell or lease its dark fiber pursuant to
11 sections ~~86-2301 to 86-2307~~ 348 to 352 of this act.

12 (5) Notwithstanding any law, ordinance, resolution, or
13 regulation of any political subdivision to the contrary, each
14 public power district may receive funds and extend loans pursuant
15 to the Nebraska Investment Finance Authority Act or pursuant to
16 this section. In addition to the powers authorized by Chapter 70
17 and specified in its petition for creation, as amended, and without
18 the need for further amendment thereto, a public power district may
19 own and operate, contract to operate, or lease energy equipment and
20 provide billing, meter reading, surveys, or evaluations and other
21 administrative services, but not to include natural gas services,
22 of public utility systems within a district's service territory.

23 Sec. 455. Section 70-704, Revised Statutes Supplement,
24 2001, is amended to read:

25 70-704. Each corporation shall have power: (1) To sue
26 and be sued, complain, and defend, in its corporate name; (2) to
27 have perpetual succession unless a limited period of duration is
28 stated in its articles of incorporation; (3) to adopt a corporate

1 seal, which may be altered at pleasure, and to use it or a
2 facsimile thereof, as required by law; (4) to generate,
3 manufacture, purchase, acquire, and accumulate electric energy and
4 to transmit, distribute, sell, furnish, and dispose of such
5 electric energy; (5) to acquire, own, hold, use, exercise and, to
6 the extent permitted by law, to sell, mortgage, pledge,
7 hypothecate, and in any manner dispose of franchises, rights,
8 privileges, licenses, rights-of-way, and easements necessary,
9 useful, or appropriate; (6) to purchase, receive, lease as lessee,
10 or in any other manner acquire, own, hold, maintain, sell,
11 exchange, and use any and all real and personal property or any
12 interest therein for the purposes expressed herein; (7) to borrow
13 money and otherwise contract indebtedness, to issue its obligations
14 therefor, and to secure the payment thereof by mortgage, pledge, or
15 deed of trust of all or any of its property, assets, franchises,
16 revenue, or income; (8) to sell and convey, mortgage, pledge, lease
17 as lessor, and otherwise dispose of all or any part of its property
18 and assets; (9) to have the same powers now exercised by law by
19 public light and power districts or private corporations to use any
20 of the streets, highways, or public lands of the state or its
21 political subdivisions in the manner provided by law; (10) to have
22 and exercise the power of eminent domain for the purposes expressed
23 in section 70-703 in the manner set forth in sections 76-704 to
24 76-724 and to have the powers and be subject to the restrictions of
25 electric light and power corporations and districts as regards the
26 use and occupation of public highways and the manner or method of
27 construction and physical operation of plants, systems, and
28 transmission lines; (11) to accept gifts or grants of money,

1 services, or property, real or personal; (12) to make any and all
2 contracts necessary or convenient for the exercise of the powers
3 granted herein; (13) to fix, regulate, and collect rates, fees,
4 rents, or other charges for electric energy furnished by the
5 corporation; (14) to elect or appoint officers, agents, and
6 employees of the corporation and to define their duties and fix
7 their compensation; (15) to make and alter bylaws not inconsistent
8 with the articles of incorporation or with the laws of this state
9 for the administration and regulation of the affairs of the
10 corporation; (16) to sell or lease its dark fiber pursuant to
11 sections ~~86-2301 to 86-2307~~ 348 to 352 of this act; and (17) to do
12 and perform, either for itself or its members or for any other
13 corporation organized under the Electric Cooperative Corporation
14 Act or for the members thereof, any and all acts and things and to
15 have and exercise any and all powers as may be necessary,
16 convenient, or appropriate to effectuate the purpose for which the
17 corporation is organized. Notwithstanding any law, ordinance,
18 resolution, or regulation of any political subdivision to the
19 contrary, each corporation may receive funds and extend loans
20 pursuant to the Nebraska Investment Finance Authority Act.

21 Sec. 456. Section 70-1409, Revised Statutes Supplement,
22 2001, is amended to read:

23 70-1409. Each joint authority shall have all the rights
24 and powers necessary or convenient to carry out and effectuate the
25 purposes and provisions of the Joint Public Power Authority Act
26 including, but not limited to, the right and power:

27 (1) To adopt bylaws for the regulation of the affairs and
28 the conduct of its business and to prescribe rules, regulations,

1 and policies in connection with the performance of its functions
2 and duties;

3 (2) To adopt an official seal and alter the same at
4 pleasure;

5 (3) To maintain an office at such place or places as it
6 may determine;

7 (4) To sue and be sued in its own name and to plead and
8 be impleaded;

9 (5) To receive, administer, and comply with the
10 conditions and requirements respecting any gift, grant, or donation
11 of any property or money;

12 (6) To acquire by purchase, lease, gift, or otherwise, or
13 to obtain options for the acquisition of, any property, real or
14 personal, improved or unimproved, including an interest in land
15 less than an interest in fee;

16 (7) To sell, lease, exchange, transfer, or otherwise
17 dispose of, or to grant options for any such purposes with respect
18 to, any real or personal property or interest in such property;

19 (8) To pledge or assign any money, rents, charges, or
20 other revenue and any proceeds derived by the joint authority from
21 the sales of property, insurance, or condemnation awards;

22 (9) To issue bonds of the joint authority for the purpose
23 of providing funds for any of its corporate purposes;

24 (10) To authorize the construction, operation, or
25 maintenance of any project or projects by any person, firm, or
26 corporation, including political subdivisions and agencies of any
27 state or of the United States;

28 (11) To acquire by negotiated purchase or lease an

1 existing project, a project under construction, or other property,
2 either individually or jointly, with one or more public power
3 districts in this state or with any political subdivisions or
4 agencies of this state or any other state or with other joint
5 authorities created pursuant to the Joint Public Power Authority
6 Act;

7 (12) To dispose of by negotiated sale or lease an
8 existing project, a project under construction, or other property,
9 either individually or jointly, with one or more public power
10 districts in this state, with any political subdivisions or
11 agencies of this state or any other state or, with other joint
12 authorities created pursuant to the Joint Public Power Authority
13 Act, except that no such sale or lease of any project located in
14 this state shall be made to any private person, firm, or
15 corporation engaged in the business of generating, transmitting, or
16 distributing electricity for profit;

17 (13) To fix, charge, and collect rents, rates, fees, and
18 charges for electric power or energy or ethanol and other services,
19 facilities, and commodities sold, furnished, or supplied through
20 any project;

21 (14) To generate, produce, transmit, deliver, exchange,
22 purchase, or sell for resale only electric power or energy or to
23 produce, deliver, or distribute ethanol and to enter into contracts
24 for any or all such purposes, subject to sections 70-1410 and
25 70-1413;

26 (15) To negotiate and enter into contracts for the
27 purchase, exchange, interchange, wheeling, pooling, or transmission
28 of electric power and energy with any public power district, any

1 other joint authority, any political subdivision or agency of this
2 state or any other state, any electric cooperative, or any
3 municipal agency which owns electric generation, transmission, or
4 distribution facilities in this state or any other state;

5 (16) To negotiate and enter into contracts for the sale
6 or use of electric power and energy or ethanol with any joint
7 authority, electric cooperative, any political subdivision or
8 agency or any public or private electric utility of this state or
9 any other state, any joint agency, electric cooperative,
10 municipality, public or private electric utility, or any state or
11 federal agency or political subdivision, subject to sections
12 70-1410 and 70-1413;

13 (17) To make and execute contracts and other instruments
14 necessary or convenient in the exercise of the powers and functions
15 of the joint authority under the Joint Public Power Authority Act,
16 including contracts with persons, firms, corporations, and others;

17 (18) To apply to the appropriate agencies of the state,
18 the United States, or any other state and to any other proper
19 agency for such permits, licenses, certificates, or approvals as
20 may be necessary to construct, maintain, and operate projects in
21 accordance with such licenses, permits, certificates, or approvals,
22 and to obtain, hold, and use the same rights granted in any
23 licenses, permits, certificates, or approvals as any other person
24 or operating unit would have under such documents;

25 (19) To employ engineers, architects, attorneys,
26 appraisers, financial advisors, and such other consultants and
27 employees as may be required in the judgment of the joint authority
28 and to fix and pay their compensation from funds available to the

1 joint authority. The joint authority may employ technical experts
2 and such other officers, agents, and employees as it may require
3 and shall assess their qualifications, duties, compensation, and
4 term of office. The board may delegate to one or more of the joint
5 authority's employees or agents such powers and duties as the board
6 may deem proper;

7 (20) To make loans or advances for long-term,
8 supplemental, short-term, and interim financing for both capital
9 projects and operational purposes to those member districts on such
10 terms and conditions as the board of directors of the joint
11 authority may deem necessary and to secure such loans or advances
12 by assignment of revenue, receivables, or other sums of the member
13 district and such other security as the board of directors of the
14 joint authority may determine; and

15 (21) To sell or lease its dark fiber pursuant to sections
16 ~~86-2301 to 86-2307~~ 348 to 352 of this act.

17 Any joint authority shall have the same power of eminent
18 domain as the public power districts have under section 70-670.

19 Sec. 457. Section 71-1,142, Revised Statutes Supplement,
20 2001, is amended to read:

21 71-1,142. For purposes of sections 71-1,142 to 71-1,151
22 and elsewhere in the Uniform Licensing Law, unless the context
23 otherwise requires:

24 (1) Practice of pharmacy means (a) the interpretation,
25 evaluation, and implementation of a medical order, (b) the
26 dispensing of drugs and devices, (c) drug product selection, (d)
27 the administration of drugs or devices, (e) drug utilization
28 review, (f) patient counseling, (g) the provision of pharmaceutical

1 care, and (h) the responsibility for compounding and labeling of
2 dispensed or repackaged drugs and devices, proper and safe storage
3 of drugs and devices, and maintenance of proper records. The active
4 practice of pharmacy means the performance of the functions set out
5 in this subdivision by a pharmacist as his or her principal or
6 ordinary occupation;

7 (2) Administer means to directly apply a drug or device
8 by injection, inhalation, ingestion, or other means to the body of
9 a patient or research subject;

10 (3) Administration means the act of (a) administering,
11 (b) keeping a record of such activity, and (c) observing,
12 monitoring, reporting, and otherwise taking appropriate action
13 regarding desired effect, side effect, interaction, and
14 contraindication associated with administering the drug or device;

15 (4) Board means the Board of Pharmacy;

16 (5) Caregiver means any person acting as an agent on
17 behalf of a patient or any person aiding and assisting a patient;

18 (6) Chart order means an order for a drug or device
19 issued by a practitioner for a patient who is in the hospital where
20 the chart is stored or for a patient receiving detoxification
21 treatment or maintenance treatment pursuant to section 28-412.
22 Chart order does not include a prescription;

23 (7) Compounding means preparing, mixing, or assembling a
24 drug or device (a) as the result of a practitioner's medical order
25 or initiative occurring in the course of practice based upon the
26 relationship between the practitioner, patient, and pharmacist or
27 (b) for the purpose of, or incident to, research, teaching, or
28 chemical analysis and not for sale or dispensing. Compounding

1 includes preparing drugs or devices in anticipation of medical
2 orders based upon routine, regularly observed prescribing patterns;

3 (8) Delegated dispensing means the practice of pharmacy
4 by which one or more pharmacists have jointly agreed, on a
5 voluntary basis, to work in conjunction with one or more persons
6 pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol
7 which provides that such person may perform certain dispensing
8 functions authorized by the pharmacist or pharmacists under certain
9 specified conditions and limitations;

10 (9) Deliver or delivery means to actually,
11 constructively, or attempt to transfer a drug or device from one
12 person to another, whether or not for consideration;

13 (10) Department means the Department of Health and Human
14 Services Regulation and Licensure;

15 (11) Device means an instrument, apparatus, implement,
16 machine, contrivance, implant, in vitro reagent, or other similar
17 or related article, including any component, part, or accessory,
18 which is prescribed by a practitioner and dispensed by a pharmacist
19 or other person authorized by law to do so;

20 (12) Dialysis drug or device distributor means a
21 manufacturer or wholesaler who provides dialysis drugs, solutions,
22 supplies, or devices, to persons with chronic kidney failure for
23 self-administration at the person's home or specified address,
24 pursuant to a prescription;

25 (13) Dialysis drug or device distributor worker means a
26 person working for a dialysis drug or device distributor with a
27 delegated dispensing permit who has completed the approved training
28 and has demonstrated proficiency to perform the task or tasks of

1 assembling, labeling, or delivering drugs or devices pursuant to a
2 prescription;

3 (14) Dispense or dispensing means interpreting,
4 evaluating, and implementing a medical order, including preparing
5 and delivering a drug or device to a patient or caregiver in a
6 suitable container appropriately labeled for subsequent
7 administration to, or use by, a patient. Dispensing includes (a)
8 dispensing incident to practice, (b) dispensing pursuant to a
9 delegated dispensing permit, (c) dispensing pursuant to a medical
10 order, and (d) any transfer of a prescription drug or device to a
11 patient or caregiver other than by administering;

12 (15) Distribute means to deliver a drug or device, other
13 than by administering or dispensing;

14 (16) Facility means a health care facility as defined in
15 section 71-413;

16 (17) Hospital has the same meaning as in section 71-419;

17 (18) Person means an individual, corporation,
18 partnership, limited liability company, association, or other legal
19 entity;

20 (19) Labeling means the process of preparing and affixing
21 a label to any drug container or device container, exclusive of the
22 labeling by a manufacturer, packer, or distributor of a
23 nonprescription drug or commercially packaged legend drug or
24 device. Any such label shall include all information required by
25 federal and state law or regulation;

26 (20) Medical order means a prescription, a chart order,
27 or an order for pharmaceutical care issued by a practitioner;

28 (21) Pharmaceutical care means the provision of drug

1 therapy for the purpose of achieving therapeutic outcomes that
2 improve a patient's quality of life. Such outcomes include (a) the
3 cure of disease, (b) the elimination or reduction of a patient's
4 symptomatology, (c) the arrest or slowing of a disease process, or
5 (d) the prevention of a disease or symptomatology. Pharmaceutical
6 care includes the process through which the pharmacist works in
7 concert with the patient and his or her caregiver, physician, or
8 other professionals in designing, implementing, and monitoring a
9 therapeutic plan that will produce specific therapeutic outcomes
10 for the patient;

11 (22) Pharmacist means any person who is licensed by the
12 State of Nebraska to practice pharmacy;

13 (23) Pharmacy has the same meaning as in section 71-425;

14 (24) Drugs, medicines, and medicinal substances means (a)
15 articles recognized in the official United States Pharmacopoeia,
16 the Homeopathic Pharmacopoeia of the United States, the official
17 National Formulary, or any supplement to any of them, (b) articles
18 intended for use in the diagnosis, cure, mitigation, treatment, or
19 prevention of diseases in humans or animals, (c) articles, except
20 food, intended to affect the structure or any function of the body
21 of a human or an animal, (d) articles intended for use as a
22 component of any articles specified in subdivision (a), (b), or (c)
23 of this subdivision, except any device or its components, parts, or
24 accessories, and (e) prescription drugs or devices as defined in
25 subdivision (31) of this section;

26 (25) Patient counseling means the verbal communication by
27 a pharmacist, pharmacist intern, or practitioner, in a manner
28 reflecting dignity and the right of the patient to a reasonable

1 degree of privacy, of information to the patient or caregiver in
2 order to improve therapeutic outcomes by maximizing proper use of
3 prescription drugs and devices and also includes the duties set out
4 in section 71-1,147.35;

5 (26) Pharmacist in charge means a pharmacist who is
6 designated on a pharmacy license or designated by a hospital as
7 being responsible for the practice of pharmacy in the pharmacy for
8 which a pharmacy license is issued and who works within the
9 physical confines of such pharmacy for a majority of the hours per
10 week that the pharmacy is open for business averaged over a
11 twelve-month period or thirty hours per week, whichever is less;

12 (27) Pharmacist intern means (a) a student currently
13 enrolled in an accredited college or school of pharmacy or (b) a
14 graduate of an accredited college or school of pharmacy serving his
15 or her internship, such internship to expire not later than fifteen
16 months after the date of graduation or at the time of professional
17 licensure, whichever comes first. Such pharmacist intern may
18 compound and dispense drugs or devices and fill prescriptions only
19 in the presence of and under the immediate personal supervision of
20 a licensed pharmacist. Such licensed pharmacist shall either be
21 (i) the person to whom the pharmacy license is issued or a person
22 in the actual employ of the pharmacy licensee or (ii) the
23 delegating pharmacist designated in a delegated dispensing
24 agreement by a hospital with a delegated dispensing permit;

25 (28) Pharmacy technician means an individual at least
26 eighteen years of age who is a high school graduate or officially
27 recognized by the State Department of Education as possessing the
28 equivalent degree of education, who has never been convicted of any

1 drug-related misdemeanor or felony, and who, under the written
2 control procedures and guidelines of an employing pharmacy, may
3 perform those functions which do not require professional judgment
4 and which are subject to verification to assist a pharmacist in the
5 practice of pharmacy;

6 (29) Practitioner means an advanced practice registered
7 nurse, certified registered nurse anesthetist, certified nurse
8 midwife, dentist, optometrist, physician assistant, physician,
9 podiatrist, or veterinarian;

10 (30) Prescribe means to issue a medical order;

11 (31) Prescription drug or device or legend drug or device
12 means (a) a drug or device which is required under federal law to
13 be labeled with one of the following statements prior to being
14 dispensed or delivered: (i) Caution: Federal law prohibits
15 dispensing without prescription; (ii) Caution: Federal law
16 restricts this drug to use by or on the order of a licensed
17 veterinarian; or (iii) "Rx Only" or (b) a drug or device which is
18 required by any applicable federal or state law to be dispensed
19 pursuant only to a prescription or chart order or which is
20 restricted to use by practitioners only;

21 (32) Prescription means an order for a drug or device
22 issued by a practitioner for a specific patient, for emergency use,
23 or for use in immunizations. Prescription does not include a chart
24 order;

25 (33) Nonprescription drugs means nonnarcotic medicines or
26 drugs which may be sold without a medical order and which are
27 prepackaged for use by the consumer and labeled in accordance with
28 the requirements of the laws and regulations of this state and the

1 federal government;

2 (34) Public health clinic worker means a person in a
3 public health clinic with a delegated dispensing permit who has
4 completed the approved training and has demonstrated proficiency to
5 perform the task of dispensing authorized refills of oral
6 contraceptives pursuant to a written prescription;

7 (35) Public health clinic means the department, any
8 county, city-county, or multicounty health department, or any
9 private not-for-profit family planning clinic licensed as a health
10 clinic as defined in section 71-416;

11 (36) Signature means the name, word, or mark of a person
12 written in his or her own hand with the intent to authenticate a
13 writing or other form of communication or a digital signature which
14 complies with section ~~86-1701~~ 377 of this act;

15 (37) Supervision means the immediate personal guidance
16 and direction by the licensed pharmacist on duty in the facility of
17 the performance by a pharmacy technician of authorized activities
18 or functions subject to verification by such pharmacist, except
19 that when a pharmacy technician performs authorized activities or
20 functions to assist a pharmacist on duty in the facility when the
21 prescribed drugs or devices will be administered by a licensed
22 staff member or consultant or by a licensed physician assistant to
23 persons who are patients or residents of a facility, the activities
24 or functions of such pharmacy technician shall only be subject to
25 verification by a pharmacist on duty in the facility;

26 (38) Verification means the confirmation by a supervising
27 pharmacist of the accuracy and completeness of the acts, tasks, or
28 functions undertaken by a pharmacy technician to assist the

1 pharmacist in the practice of pharmacy;

2 (39) Written control procedures and guidelines means the
3 document prepared and signed by the pharmacist in charge and
4 approved by the board which specifies the manner in which basic
5 levels of competency of pharmacy technicians employed by the
6 pharmacy are determined, the manner in which supervision is
7 provided, the manner in which the functions of pharmacy technicians
8 are verified, the maximum ratio of pharmacy technicians to one
9 pharmacist used in the pharmacy, and guidelines governing the use
10 of pharmacy technicians and the functions which they may perform;
11 and

12 (40) Medical gas distributor means a person who dispenses
13 medical gases to a patient or ultimate user but does not include a
14 person who manufactures medical gases or a person who distributes,
15 transfers, delivers, dispenses, or sells medical gases to a person
16 other than a patient or ultimate user.

17 Sec. 458. Section 75-101, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 75-101. (1) The members of the Public Service Commission
20 shall be resident citizens of this state, registered voters, and,
21 if members of or practitioners in any profession, in good standing
22 according to the established standards of such profession. The
23 members of the Public Service Commission shall be elected as
24 provided in section 32-509. A candidate for the office of public
25 service commissioner shall be a resident of the district from which
26 he or she seeks election. Each public service commissioner shall
27 be a resident of the district from which he or she is elected.
28 Removal from the district shall cause a vacancy in the office of

1 public service commissioner for the unexpired term.

2 (2) No person shall be eligible to the office of public
3 service commissioner who is directly or indirectly interested in
4 any common carrier in the state or out of it or who is in any way
5 or manner pecuniarily interested in any common carrier subject to
6 Chapter 75 or 86. If any commissioner becomes so interested after
7 election or appointment, his or her office shall become vacant,
8 except that if any commissioner becomes so interested otherwise
9 than voluntarily, he or she shall, within a reasonable time, divest
10 himself or herself of such interest, and failing to do so, his or
11 her office shall become vacant.

12 (3) A commissioner shall not hold any other office under
13 the government of the United States, of this state, or of any other
14 state and shall not, while such commissioner, engage in any other
15 occupation.

16 For purposes of Chapter 75:

17 (a) Commission, when referring to a state agency, ~~shall~~
18 ~~mean~~ means the Public Service Commission; and

19 (b) Commissioner ~~shall mean~~ means a member of the
20 commission.

21 Sec. 459. Section 75-109, Revised Statutes Supplement,
22 2000, is amended to read:

23 75-109. ~~(1)~~ Except as provided in ~~sections~~ section
24 19-4603, 86-803, and 86-808 and sections 25 and 42 of this act, the
25 commission shall regulate and exercise general control as provided
26 by law over all common and contract carriers engaged in the
27 transportation of freight or passengers for hire or furnishing
28 telecommunications services for hire in Nebraska intrastate

1 commerce.

2 ~~(2) The commission is authorized to do all things~~
3 ~~reasonably necessary and appropriate to implement the federal~~
4 ~~Telecommunications Act of 1996, Public Law 104-104, including~~
5 ~~section 252 of the act which establishes specific procedures for~~
6 ~~negotiation and arbitration of interconnection agreements between~~
7 ~~telecommunications companies. Interconnection agreements approved~~
8 ~~by the commission pursuant to section 252 of the act may contain~~
9 ~~such enforcement mechanisms and procedures that the commission~~
10 ~~determines to be consistent with the establishment of fair~~
11 ~~competition in Nebraska telecommunications markets. In addition,~~
12 ~~the commission may administratively fine pursuant to section 75-156~~
13 ~~any person who violates any enforcement mechanism or procedure~~
14 ~~established pursuant to this subsection. The authority granted to~~
15 ~~the commission pursuant to this subsection shall be broadly~~
16 ~~construed in a manner consistent with the federal~~
17 ~~Telecommunications Act of 1996.~~

18 Sec. 460. Section 75-122.01, Revised Statutes
19 Supplement, 2000, is amended to read:

20 75-122.01. Except as otherwise provided in section
21 75-134, the district courts shall have jurisdiction to enjoin a
22 commission order only when the order was not entered in accordance
23 with the ~~provisions of Chapter 75 or 86~~ and the commission's rules
24 and regulations adopted and promulgated pursuant to such ~~sections~~
25 chapters.

26 Sec. 461. Section 75-126, Revised Statutes Supplement,
27 2000, is amended to read:

28 75-126. (1) Except as otherwise provided in this

1 section, no common carrier shall:

2 (a) Charge, demand, collect, or receive from any person a
3 greater or lesser compensation for any services rendered than it
4 charges, demands, collects, or receives from any other person for
5 doing a like or contemporaneous service;

6 (b) Make or give any undue or unreasonable preference or
7 advantage to any particular person;

8 (c) Subject any type of traffic to any undue or
9 unreasonable prejudice, delay, or disadvantage in any respect
10 whatsoever;

11 (d) Charge or receive any greater compensation in the
12 aggregate for the transportation of a like kind of property or
13 passengers for a shorter than for a longer distance over the same
14 line or route, except as the commission may prescribe in special
15 cases to prevent manifest injuries, except that no manifest
16 injustice shall be imposed upon any person at intermediate points.
17 This section shall not prevent the commission from making group or
18 emergency rates;

19 (e) Demand, charge, or collect, by any device whatsoever,
20 a lesser or greater compensation for any service rendered than that
21 filed with or prescribed by the commission; or

22 (f) Change any rate, schedule, or classification in any
23 manner whatsoever before application has been made to the
24 commission and permission granted for that purpose, except as
25 otherwise provided in section ~~75-128~~ 54 of this act.

26 (2) This section shall not prohibit any common carrier
27 from, and a common carrier shall not be subject to any fine,
28 penalty, or forfeiture for, performing services free or at reduced

1 rates to:

2 (a) The United States, the State of Nebraska, or any
3 governmental subdivision thereof;

4 (b) The employees, both present and retired, of such
5 common carrier;

6 (c) Any person when the object is to provide relief in
7 case of any disaster;

8 (d) Any person who transports property for charitable
9 purposes;

10 (e) Ministers and others giving their entire time to
11 religious or charitable work; or

12 (f) Any person who is legally blind or visually
13 handicapped.

14 Sec. 462. Section 75-128, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 75-128. (1) It is hereby declared to be the policy of
17 the Legislature that all matters presented to the commission be
18 heard and determined without delay. All matters requiring a
19 hearing shall be set for hearing at the earliest practicable date
20 and in no event, except for good cause shown, which showing shall
21 be recited in the order, shall the time fixed for hearing be more
22 than six months after the date of filing of the application,
23 complaint, or petition on which such hearing is to be had. Except
24 in case of an emergency and upon a motion to proceed with less than
25 a quorum made by all parties and supported by a showing of clear
26 and convincing evidence of such emergency and benefit to all
27 parties, a quorum of the commission shall hear all matters set for
28 hearing. Except as otherwise provided in section 75-121 and except

1 for good cause shown, a decision of the commission shall be made
2 and filed within thirty days after completion of the hearing or
3 after submission of affidavits in nonhearing proceedings.

4 (2) ~~Applications for commission approval of specific new~~
5 ~~rates or charges or changes in existing rates or charges for~~
6 ~~telephone service which have not been heard and determined within~~
7 ~~six months and thirty days from the date the application was filed~~
8 ~~may be put into effect by the common carrier, in an amount not to~~
9 ~~exceed seventy-five percent of the total amount of the application,~~
10 ~~subject to refund of any amount collected in excess of the amount~~
11 ~~which would have been collected under the new or changed rates or~~
12 ~~charges as finally approved by the commission. The refund shall~~
13 ~~include an interest payment at a rate of interest determined by the~~
14 ~~commission, except that the rate of interest shall not exceed the~~
15 ~~overall rate of return which the common carrier is authorized to~~
16 ~~earn. When making its final determination on the application, the~~
17 ~~commission shall not consider the rates and charges of the company~~
18 ~~put into effect pending such final determination. This section~~
19 ~~shall not apply to rates or charges placed into effect under~~
20 ~~section 75-616.~~

21 ~~(3)~~ In the case of any proceeding upon which a hearing is
22 held, the transcript of testimony shall be prepared and submitted
23 to the commission prior to entry of an order, except that it shall
24 not be necessary to have prepared prior to commission decision the
25 transcripts of testimony on hearings involving noncontested
26 proceedings and hearings involving emergency rate applications
27 under section 75-121.

28 ~~(4)~~ (3) For each application, complaint, or petition

1 filed with the commission, except those filed under sections 75-301
2 to 75-322, there shall be charged a filing fee to be determined by
3 the commission, but in an amount not to exceed the sum of fifty
4 dollars payable at the time of such filing. There shall also be
5 charged to persons regulated by the commission a hearing fee of
6 fifty dollars for each half day of hearings if the person regulated
7 by the commission files an application, complaint, or petition
8 which necessitates a hearing.

9 Sec. 463. Section 75-132.01, Revised Statutes
10 Supplement, 2001, is amended to read:

11 75-132.01. (1) Notwithstanding the provisions of section
12 75-131, the commission shall have exclusive original jurisdiction
13 over any action concerning a violation of any provision of (a)
14 ~~section 75-109, 75-604, 75-609, 75-609.01, or 86-801 to 86-810~~ the
15 Nebraska Telecommunications Regulation Act by a telecommunications
16 company or (b) ~~sections 86-2301 to 86-2307~~ sections 348 to 352 of
17 this act by an agency or political subdivision of the state.

18 (2) After all administrative remedies before the
19 commission have been exhausted, any interested party to an action
20 may appeal. The appeal shall be in accordance with the
21 Administrative Procedure Act.

22 (3) If the commission enters an order declining
23 jurisdiction under subsection (1) of this section, any interested
24 person may petition the district court of the county in which such
25 alleged violation has occurred. If it appears to the court, after
26 a hearing, that a provision of ~~such sections~~ the Nebraska
27 Telecommunications Regulation Act or sections 348 to 352 of this
28 act has been violated, the court may issue an injunction or other

1 proper process to restrain the telecommunications company and its
2 directors, officers, employees, or agents or the agency or
3 political subdivision of the state from continuing such violation
4 and may order additional relief. Any party to the case shall have
5 the right to appeal the decision of the district court to the Court
6 of Appeals under the rules provided by law for appeals in civil
7 cases.

8 (4) For purposes of this section, telecommunications
9 company has the same meaning as in section ~~86-802~~ 20 of this act.

10 Sec. 464. Section 75-133, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 75-133. Whenever the commission has reason to believe
13 that any motor carrier, regulated motor carrier, or other common
14 carrier as ~~defined~~ described in section 75-109 is in neglect or
15 violation of ~~any provision of sections 75-101 to 75-801~~ Chapter 75
16 or 86, it shall at once institute an investigation and fix a time
17 and place for hearing thereon, upon its own motion, and shall make
18 any order as it deems just and reasonable, including, but not
19 limited to, an order that the carrier cease and desist from
20 continuing such neglect or violation made effective on the date of
21 entry of the order by the commission.

22 Sec. 465. Section 75-134, Revised Statutes Supplement,
23 2000, is amended to read:

24 75-134. (1) A commission order entered after a hearing
25 shall be written and shall recite (a) a discussion of the facts of
26 a basic or underlying nature, (b) the ultimate facts, and (c) the
27 commission's reasoning or other authority relied upon by the
28 commission.

1 (2) Every order of the commission shall become effective
2 ten days after the date of the mailing of a copy of the order to
3 the parties of record except (a) when the commission prescribes a
4 later effective date, (b) as otherwise provided in section 75-121
5 or 75-139, (c) as otherwise provided for cease and desist orders
6 issued pursuant to section 75-133, or (d) for orders entered
7 pursuant to section 75-319 which shall be effective on the date of
8 entry.

9 (3) Except as otherwise provided in this section or for
10 rate orders provided for in section 75-139, if one of the parties
11 of record commences an appeal pursuant to section 75-137, the order
12 appealed shall be in abeyance until the Court of Appeals or Supreme
13 Court issues its mandate. Nothing in this section shall hold in
14 abeyance an order authorizing the issuance of a certificate or
15 permit, an order denying relief or authority, or an order entered
16 pursuant to section 75-319.

17 (4) If a party of record to a telecommunications order
18 commences an appeal in accordance with the Administrative Procedure
19 Act, the order appealed shall become effective on the date
20 prescribed in subsection (2) of this section and remain in effect
21 unless upon application (a) the commission or district court issues
22 an order staying the underlying commission order or (b) the
23 commission, district court, Court of Appeals, or Supreme Court
24 issues an order reversing or modifying the underlying commission
25 order. For purposes of this subsection, telecommunications order
26 means an order entered by the commission pursuant to the Automatic
27 Dialing-Announcing Devices Act, the Emergency Telephone
28 Communications Systems Act, the Intrastate Pay-Per-Call Regulation

1 Act, the Nebraska Telecommunications Regulation Act, the Nebraska
2 Telecommunications Universal Service Fund Act, or the
3 Telecommunications Relay System Act. ~~, subsection (2) of section~~
4 ~~75-109, or sections 75-604 to 75-616, 86-801 to 86-811, 86-1001 to~~
5 ~~86-1009, or 86-1201 to 86-1222.~~

6 (5) The commission or district court may only issue a
7 stay pursuant to subsection (4) of this section if it finds that
8 (a) the applicant for the stay is likely to prevail when the matter
9 is finally decided, (b) without relief, the applicant will suffer
10 irreparable injury, and (c) the grant of relief to the applicant
11 will not substantially harm other parties to the proceedings. The
12 commission or district court may require the party requesting such
13 stay to give bond in such amount and conditioned as the commission
14 or court may direct. The grant or denial of a stay shall not be
15 considered to be a final order.

16 Sec. 466. Section 75-155, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 75-155. Unless a more specific criminal penalty is
19 provided, any person who knowingly and willfully violates ~~any~~
20 ~~provision of~~ Chapter 75 or 86, any rule, regulation, or order of
21 the commission, or any term or condition of any permit or
22 certificate issued by the commission ~~shall be~~ is guilty of a Class
23 IV misdemeanor. Each day of such violation ~~shall constitute~~
24 constitutes a separate offense.

25 Sec. 467. Section 75-156, Revised Statutes Supplement,
26 2000, is amended to read:

27 75-156. (1) In addition to other penalties and relief
28 provided by law, the Public Service Commission may, upon a finding

1 that the violation is proven by clear and convincing evidence,
2 assess a civil penalty of up to ten thousand dollars per day
3 against any person, motor carrier, regulated motor carrier, common
4 carrier, or contract carrier for each violation of (a) any
5 provision of sections 75-301 to 75-390 administered by the
6 commission or section 75-126 as such section applies to any person
7 or carrier specified in sections 75-301 to 75-390, (b) a commission
8 order entered pursuant to the Automatic Dialing-Announcing Devices
9 Act, the Emergency Telephone Communications Systems Act, the
10 Intrastate Pay-Per-Call Regulation Act, the Nebraska
11 Telecommunications Regulation Act, the Nebraska Telecommunications
12 Universal Service Fund Act, or the Telecommunications Relay System
13 Act, subsection (2) of section 75-109, or sections 75-604 to
14 75-616, 86-801 to 86-811, 86-1001 to 86-1009, or 86-1201 to
15 86-1222, (c) any term, condition, or limitation of any certificate
16 or permit issued by the commission pursuant to sections 75-301 to
17 75-390, or (d) any rule, regulation, or order of the commission
18 issued under authority delegated to the commission pursuant to
19 sections 75-301 to 75-390. The civil penalty assessed under this
20 section shall not exceed two million dollars per year for each
21 violation. The amount of the civil penalty assessed in each case
22 shall be based on the severity of the violation charged. The
23 commission may compromise or mitigate any penalty prior to hearing
24 if all parties agree. In determining the amount of the penalty,
25 the commission shall consider the appropriateness of the penalty in
26 light of the gravity of the violation and the good faith of the
27 violator in attempting to achieve compliance after notification of
28 the violation is given.

1 (2) Upon notice and hearing in accordance with this
2 section and section 75-157, the commission may enter an order
3 assessing a civil penalty of up to one hundred dollars against any
4 person, firm, partnership, limited liability company, corporation,
5 cooperative, or association for failure to file an annual report as
6 required by section 75-116 and as prescribed by commission rules
7 and regulations. Each day during which the violation continues
8 after the commission has issued an order finding that a violation
9 has occurred constitutes a separate offense. Any party aggrieved
10 by an order of the commission under this section, except an order
11 assessing a civil penalty issued under subdivision (1)(b) of this
12 section, has the rights of appeal set forth in section 75-136.01.
13 For an order assessing a civil penalty issued under subdivision
14 (1)(b) of this section, any party aggrieved may appeal. The appeal
15 shall be in accordance with the Administrative Procedure Act.

16 (3) When any person or party is accused of any violation
17 listed in this section, the commission shall notify such person or
18 party in writing (a) setting forth the date, facts, and nature of
19 each act or omission upon which each charge of a violation is
20 based, (b) specifically identifying the particular statute,
21 certificate, permit, rule, regulation, or order purportedly
22 violated, (c) that a hearing will be held and the time, date, and
23 place of the hearing, (d) that in addition to the civil penalty,
24 the commission may enforce additional penalties and relief as
25 provided by law, and (e) that upon failure to pay any civil penalty
26 determined by the commission, the penalty may be collected by civil
27 action in the district court of Lancaster County.

28 Sec. 468. Section 76-2301, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 76-2301. Sections 76-2301 to 76-2330 and section 469 of
3 this act shall be known and may be cited as the One-Call
4 Notification System Act.

5 Sec. 469. Section 86-304, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-304.~~ Any person who willfully and maliciously breaks,
8 injures, destroys, or otherwise interferes with the poles, wires,
9 or other facilities of any telecommunications or railroad company
10 or electric light and power company in this state or who willfully
11 and purposely interrupts or interferes with the transmission of
12 telecommunications messages or the transmission of light, heat, and
13 power in this state shall be subject to the action and penalty
14 prescribed in section 28-519.

15 Sec. 470. Section 76-2321, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 76-2321. (1) A person shall not commence any excavation
18 without first giving notice to every operator. An excavator's
19 notice to the center shall be deemed notice to all operators. An
20 excavator's notice to operators shall be ineffective for purposes
21 of this subsection unless given to the center. Notice to the
22 center shall be given at least two full business days, but no more
23 than ten business days, before commencing the excavation, except
24 notice may be given more than ten business days in advance when the
25 excavation is a road construction, widening, repair, or grading
26 project provided for in ~~section 86-334~~ sections 417 to 419 and 451
27 to 453 of this act. An excavator may commence work before the
28 elapse of two full business days when (a) notice to the center has

1 been given as provided by this subsection and (b) all the affected
2 operators have notified the excavator that the location of all the
3 affected operator's underground facilities have been marked or that
4 the operators have no underground facilities in the location of the
5 proposed excavation.

6 (2) The notice required pursuant to subsection (1) of
7 this section shall include (a) the name and telephone number of the
8 person making the notification, (b) the name, address, and
9 telephone number of the excavator, (c) the location of the area of
10 the proposed excavation, including the range, township, section,
11 and quarter section, unless the area is within the corporate limits
12 of a city or village, in which case the location may be by street
13 address, (d) the date and time excavation is scheduled to commence,
14 (e) the depth of excavation, (f) the type and extent of excavation
15 being planned, including whether the excavation involves tunneling
16 or horizontal boring, and (g) whether the use of explosives is
17 anticipated.

18 Sec. 471. Section 86-1601, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~86-1601.~~ Sections ~~86-1601 to 86-1606~~ 471 to 476 of this
21 act shall be known and may be cited as the Nebraska Plane
22 Coordinate System Act.

23 Sec. 472. Section 86-1602, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~86-1602.~~ (1) For purposes of the Nebraska Plane
26 Coordinate System Act, Nebraska Plane Coordinate System means the
27 system of plane coordinates for designating the geographic position
28 of points on the surface of the earth, within the State of

1 Nebraska, which have been established by the National Ocean
2 Service/National Geodetic Survey, or its successors, for defining
3 and stating the geographic positions or locations of points on the
4 surface of the earth, within the State of Nebraska; and

5 (2) For purposes of more precisely defining the Nebraska
6 Plane Coordinate System, the following definition by the National
7 Ocean Service/National Geodetic Survey is also adopted:

8 The Nebraska Plane Coordinate System is a Lambert
9 conformal conic projection of the North American Datum of 1983,
10 having standard parallels at north latitudes 40 degrees 00 minutes
11 and 43 degrees 00 minutes along which parallels the scale shall be
12 exact. The origin of coordinates is at the intersection of the
13 meridian 100 degrees 00 minutes west of Greenwich and the parallel
14 39 degrees 50 minutes north latitude. This origin is given the
15 coordinates. N = 0 meters and E = 500,000 meters.

16 Sec. 473. Section 86-1603, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~86-1603.~~ The plane coordinate values for a point on the
19 earth's surface used to express the geographic position or location
20 of such point of this system shall consist of two distances
21 expressed in meters and decimals of a meter when using the Nebraska
22 Plane Coordinate System. One of the distances, to be known as the
23 "northing" or "N", shall give the position in a north-and-south
24 direction. The other, to be known as the "easting" or "E", shall
25 give the position in an east-and-west direction. These coordinates
26 shall be made to depend upon and conform to plane rectangular
27 coordinate values for the monumented horizontal control stations of
28 the North American National Geodetic Horizontal Network as

1 published by the National Ocean Service/National Geodetic Survey,
2 or its successors, and whose plane coordinates have been computed
3 based on the system described in the Nebraska Plane Coordinate
4 System Act. Any such station may be used for establishing a survey
5 connection to the Nebraska Plane Coordinate System.

6 Sec. 474. Section 86-1604, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~86-1604.~~ No coordinates based on the Nebraska Plane
9 Coordinate System purporting to define the position of a point on a
10 land boundary shall be presented to be recorded in any public land
11 records or deed records unless such point is within one kilometer
12 of a monumented horizontal control station established in
13 conformity with the standards of accuracy and specifications for
14 first-order or second-order geodetic surveying, as prepared and
15 published by the Federal Geodetic Control Subcommittee of the
16 United States Department of Commerce. Standards and specifications
17 of the Federal Geodetic Control Subcommittee, or its successor, in
18 force on the date of the survey shall apply. Publishing existing
19 monumented horizontal control stations, or the acceptance with
20 intent to publish the newly established monumented horizontal
21 control stations, by the National Ocean Service/National Geodetic
22 Survey shall constitute evidence of adherence to the Federal
23 Geodetic Control Subcommittee specifications. The State Surveyor
24 may grant a waiver of the requirements of this section upon
25 submission of evidence that the standards of accuracy and
26 specifications used exceed the requirements of this section.

27 Sec. 475. Section 86-1605, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~86-1605.~~ The use of the term "Nebraska Plane Coordinate
2 System" on any map, report, survey, or other document shall be
3 limited to coordinates based upon the Nebraska Plane Coordinate
4 System.

5 Sec. 476. Section 86-1606, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~86-1606.~~ Descriptions of tracts of land by reference to
8 subdivisions, lines or corners of the United States public land
9 survey, or other original pertinent surveys, are hereby recognized
10 as the basic and prevailing method for describing tracts of land.
11 Whenever coordinates of the Nebraska Plane Coordinate System are
12 used in descriptions of tracts of land, they shall be construed as
13 being supplementary to descriptions of such subdivisions, lines or
14 corners of the United States public land survey, or such other
15 original pertinent surveys contained in official plats and field
16 notes of record. In the event of any conflict, coordinates of the
17 Nebraska Plane Coordinate System shall not determine the issue, but
18 may be used as collateral facts to show additional evidence.

19 Sec. 477. Section 79-215, Revised Statutes Supplement,
20 2001, is amended to read:

21 79-215. (1) Except as otherwise provided in this
22 section, a student is a resident of the school district where he or
23 she resides or any school district where at least one of his or her
24 parents reside and shall be admitted to any such school district
25 upon request without charge.

26 (2) A school board shall admit any homeless student that
27 requests admission without charge.

28 (3) A school board may allow a student whose residency in

1 the district ceases during a school year to continue attending
2 school in such district for the remainder of that school year.

3 (4) A school board may admit nonresident students to the
4 school district pursuant to a contract with the district where the
5 student is a resident and shall collect tuition pursuant to the
6 contract.

7 (5) A school board may admit nonresident students to the
8 school district pursuant to the enrollment option program as
9 authorized by sections 79-232 to 79-246, and such admission shall
10 be without charge.

11 (6) A school board may admit a student who is a resident
12 of another state to the school district and collect tuition in
13 advance at a rate determined by the school board.

14 (7) When a student as a ward of the state or as a ward of
15 any court (a) has been placed in a school district other than the
16 district in which he or she resided at the time he or she became a
17 ward and such ward does not reside in a foster family home licensed
18 or approved by the Department of Health and Human Services or a
19 foster home maintained or used pursuant to section 83-108.04 or (b)
20 has been placed in any institution which maintains a special
21 education program which has been approved by the State Department
22 of Education and such institution is not owned or operated by the
23 district in which he or she resided at the time he or she became a
24 ward, the cost of his or her education and the required
25 transportation costs associated with the student's education shall
26 be paid by the state, but not in advance, to the receiving school
27 district or approved institution under rules and regulations
28 prescribed by the Department of Health and Human Services and the

1 student shall remain a resident of the district in which he or she
2 resided at the time he or she became a ward. Any student who is a
3 ward of the state or a ward of any court who resides in a foster
4 family home licensed or approved by the Department of Health and
5 Human Services or a foster home maintained or used pursuant to
6 section 83-108.04 shall be deemed a resident of the district in
7 which the foster family home or foster home is located.

8 (8) When a student is not a ward of the state or a ward
9 of any court and is residing in a residential setting located in
10 Nebraska for reasons other than to receive an education and the
11 residential setting is operated by a service provider which is
12 certified or licensed by the Department of Health and Human
13 Services or is enrolled in the medical assistance program
14 established under sections 68-1018 to 68-1025 and Title XIX or XXI
15 of the federal Social Security Act, as amended, the student shall
16 remain a resident of the district in which he or she resided
17 immediately prior to residing in such residential setting. Upon
18 request by a parent or legal guardian, the resident school district
19 shall contract with the district in which such residential setting
20 is located for the provision of all educational services, including
21 all special education services. If the parent or legal guardian has
22 requested that the resident school district contract with the
23 district in which such residential setting is located, the district
24 in which such residential setting is located shall contract with
25 the resident district and provide all educational services,
26 including all special education services, to the student. If the
27 two districts cannot agree on the amount of the contract, the State
28 Department of Education shall determine the amount to be paid by

1 the resident district to the district in which such residential
2 setting is located based on the needs of the student, approved
3 special education rates, the department's general experience with
4 special education budgets, and the cost per student in the district
5 in which such residential setting is located. Once the contract has
6 been entered into, all legal responsibility for special education
7 and related services shall be transferred to the school district in
8 which the residential setting is located. The resident district
9 for a student who is not a ward of the state or a ward of any court
10 does not change when the student moves from one residential setting
11 to another.

12 (9) In the case of any individual eighteen years of age
13 or younger who is a ward of the state or any court and who is
14 placed in a county detention home established under section
15 43-2,110, the cost of his or her education shall be paid by the
16 state, regardless of the district in which he or she resided at the
17 time he or she became a ward, to the agency or institution which:
18 (a) Is selected by the county board with jurisdiction over such
19 detention home; (b) has agreed or contracted with such county board
20 to provide educational services; and (c) has been approved by the
21 State Department of Education pursuant to rules and regulations
22 prescribed by the State Board of Education.

23 (10) No tuition shall be charged for students who may be
24 by law allowed to attend the school without charge.

25 (11) On a form prescribed by the State Department of
26 Education, an adult with legal or actual charge or control of a
27 student shall provide the name of the student, the name of the
28 adult with legal or actual charge or control of the student, the

1 address where the student is residing, and the ~~phone~~ telephone
2 number and address where the adult may generally be reached during
3 the school day. If the student is homeless or if the adult does
4 not have a ~~phone~~ telephone number and address where he or she may
5 generally be reached during the school day, those parts of the form
6 may be left blank and a box may be marked acknowledging that these
7 are the reasons these parts of the form were left blank. The adult
8 with legal or actual charge or control of the student shall also
9 sign the form.

10 (12) The department shall adopt and promulgate rules and
11 regulations to carry out the department's responsibilities under
12 this section.

13 Sec. 478. Section 79-1241.02, Revised Statutes
14 Supplement, 2001, is amended to read:

15 79-1241.02. It is the intent of the Legislature that any
16 funds appropriated pursuant to the intent of section 79-1241.01 for
17 technology-related projects or technology initiatives undertaken by
18 an educational service unit follow the review process established
19 in sections ~~86-1501 to 86-1514~~ 286 to 298 of this act, including
20 the review by the technical panel of the Nebraska Information
21 Technology Commission.

22 Sec. 479. Section 79-1327, Revised Statutes Supplement,
23 2000, is amended to read:

24 79-1327. The advisory committee described in section
25 79-1326 shall:

26 (1) Assist in the study of needs of the schools and
27 recommend appropriate program development;

28 (2) Help correlate operations between the Nebraska

1 Educational Telecommunications Commission, the State Department of
2 Education, the program development agencies, and the schools of
3 Nebraska;

4 (3) Recommend appropriate instructional
5 telecommunications production centers;

6 (4) Recommend appropriate program agencies for
7 instructional telecommunications planning and development;

8 (5) Assist in the development of long-range, cooperative
9 plans for instructional telecommunications in Nebraska;

10 (6) Assist in developing coordinated broadcast schedules
11 for the available transmission sources;

12 (7) Submit nominations of candidates for director of
13 instructional telecommunications;

14 (8) Consistently keep the State Department of Education
15 adequately informed on technical and transmission capabilities; and

16 (9) Provide assistance as requested by the Nebraska
17 Information Technology Commission to support the technical panel
18 created in section ~~86-1511~~ 295 of this act.

19 Sec. 480. Section 79-1328, Revised Statutes Supplement,
20 2001, is amended to read:

21 79-1328. (1) For fiscal years 2001-02 and 2002-03, the
22 Excellence in Education Council shall grant up to twenty percent of
23 the Education Innovation Fund, not to exceed one million five
24 hundred thousand dollars per fiscal year, to a grantee for a
25 distance education network completion grant. The distance
26 education network completion grant shall fund engineering,
27 equipment, and installation charges for two-way interactive
28 distance education capacity for public high school buildings that

1 do not currently have such capacity. The grant application shall:

2 (a) Designate the State Department of Education as the
3 fiscal agent for the grant;

4 (b) Specify criteria for determining the public high
5 school buildings for which the grant will fund engineering,
6 equipment, and installation charges;

7 (c) Specify criteria for determining the engineering,
8 equipment, and installation charges which the grant will fund;

9 (d) Specify the technique for prorating funding and
10 collecting funds from districts if the charges for engineering,
11 equipment, and installation for the public high school buildings
12 for which grant funds are used exceed the grant funds available;

13 (e) Specify the procedure for assuring that all projects
14 meet the standards of the technical panel created in section
15 ~~86-1511~~ 295 of this act, including periodic reviews of projects by
16 the technical panel;

17 (f) Specify the timeline for completing a statewide
18 two-way interactive distance education network that includes all
19 participating public high schools; and

20 (g) Specify that any equipment obtained through a grant
21 is the property of the school district and not the department.

22 (2) For a public high school to participate in the grant,
23 the school district must apply to the department as the fiscal
24 agent on a form prescribed by the department on or before a date
25 established by the department. The application shall require
26 evidence that the school district has made a commitment to be part
27 of a distance education consortium and that the distance education
28 consortium has accepted the district's commitment. The application

1 shall also require the applicant district to list the classes that
2 the district anticipates accessing from the consortium or a
3 community college and any classes that the district anticipates
4 that it will offer to other districts in the consortium through
5 distance education.

6 (3) The department as the fiscal agent may use up to
7 twenty-five thousand dollars per fiscal year of the grant funds to
8 fund a project manager.

9 Sec. 481. Section 81-1117, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-1117. (1) As used in this section, unless the context
12 otherwise requires, information management includes, but is not
13 limited to:

14 (a) Mainframe computers, minicomputers, microprocessors,
15 word processors, and desktop computers;

16 (b) Any peripheral device to be used with the equipment
17 listed in subdivision (1)(a) of this section for such purposes as
18 data input and output, data storage, or data communications;

19 (c) Any code or program to control the operation of the
20 equipment or devices listed in subdivision (1)(a) or (1)(b) of this
21 section; and

22 (d) Employment of professional expertise for computer
23 system design, operations, or program development.

24 (2) Subject to review and approval by the Director of
25 Administrative Services, the information management services
26 administrator shall have the following powers, duties, and
27 responsibilities:

28 (a) He or she may review the accounting and other records

1 and reporting systems of all divisions within the Department of
2 Administrative Services and within every other department and
3 agency of the state;

4 (b) He or she shall systematically review the potential
5 application of information management to any work performed outside
6 the information management services division or by any department
7 or agency of the state or any subdivision of any department or
8 agency of the state, and if he or she finds that the costs of
9 mechanizing such work will not exceed present costs or that
10 efficiencies may be achieved, he or she may accept responsibility
11 for the performance of such work. He or she may also review
12 current computer applications to determine if revision or deletion
13 of computer applications would be beneficial. The findings of
14 reviews made pursuant to this subdivision shall be reported to the
15 Governor and the Legislative Fiscal Analyst;

16 (c) He or she may, with the approval of the director,
17 make such revisions to internal systems for production of
18 accounting and other reports as may be necessary to permit
19 economical undertaking of work to be performed by the information
20 management services division for any agency or department of the
21 state;

22 (d) He or she shall organize the information management
23 services division to provide system review, system design,
24 feasibility studies, and machine reviews;

25 (e) He or she may review the operations of information
26 management installations as may exist in any department or agency
27 of the state and may cause such operations to be merged with those
28 of the information management services division in the event that a

1 cost analysis shows that economic advantage may be achieved. He or
2 she may permit the establishment of departmental or agency
3 information management operations in any department or agency of
4 the state if his or her analysis of feasibility shows a potential
5 economy or a substantial convenience for the state incident to such
6 separate establishment. No state agency shall hire, purchase,
7 lease, or rent any information management item listed in subsection
8 (1) of this section without the written approval of the information
9 management services administrator. All new computer programs
10 developed or acquired for use with information management equipment
11 of any state agency shall be documented according to standards
12 developed or approved by the information management services
13 administrator;

14 (f) He or she shall prepare a budget in sufficient time
15 in advance of the statutory date for submittal of budget requests
16 by departments and agencies of the state as to permit each
17 department and agency for which services are performed, or are to
18 be performed during the request budget period, to be informed of
19 the cost of maintaining the current fiscal year's production work
20 for inclusion within their respective budget requests;

21 (g) He or she shall provide for a system of charges for
22 services rendered by the information management services division
23 of the Department of Administrative Services to any other
24 department or agency of the state when these charges are allocable
25 to a particular project carried on by such department or division.
26 Such standard rate charges shall, as nearly as may be practical,
27 reflect the actual costs incurred in the performance of services
28 for such department or agency. Such system of charges shall be

1 annually reviewed by the Legislature's Committee on Appropriations.
2 Rates planned for the coming fiscal year shall be included in the
3 instructions for completion of budget request forms as annually
4 prepared by the Department of Administrative Services budget
5 division. If rate revisions are required during the fiscal year to
6 reflect changes in the information management services division's
7 operating costs, these revisions shall be announced to state
8 agencies at least thirty days prior to their use in billing these
9 agencies for service. Miscellaneous supplies shall be billed to
10 using agencies at actual cost. Equipment used primarily by one
11 agency for special applications shall be billed to that agency at
12 actual cost. In the event of saturation of the information
13 management services division with the resulting need for
14 contractual support to be furnished by another information
15 management installation, agencies shall be billed at actual cost.
16 The charges received by the department for information management
17 services shall be credited to a fund hereby created which shall be
18 known as the Information Management Revolving Fund. Expenditures
19 shall be made from such fund to finance the operations of the
20 information management services division in accordance with
21 appropriations made by the Legislature. ~~Any money in the Data~~
22 ~~Processing Revolving Fund on April 3, 1998, shall be transferred to~~
23 ~~the Information Management Revolving Fund on or after such date.~~
24 Any money in the Information Management Revolving Fund available
25 for investment shall be invested by the state investment officer
26 pursuant to the Nebraska Capital Expansion Act and the Nebraska
27 State Funds Investment Act;

28 (h) He or she may provide information management services

1 and technical assistance to any subdivision of government as
2 provided for under the Interlocal Cooperation Act or the Joint
3 Public Agency Act;

4 (i) He or she shall provide for the centralization of all
5 administrative work, including that of educational institutions,
6 into the information management services division;

7 (j) He or she shall provide definitions of standards and
8 common data elements, coordinate the collection of data,
9 consolidate data files or data banks, and review and approve or
10 disapprove the establishment of separate data banks; and

11 (k) He or she shall provide assistance as requested by
12 the Nebraska Information Technology Commission to support the
13 technical panel created in section ~~86-1511~~ 295 of this act.

14 Each member of the Legislature shall receive a copy of
15 the report required by subdivision (2)(b) of this section by making
16 a request for it to the administrator.

17 Sec. 482. Section 81-1120.17, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 81-1120.17. The division of communications shall have
20 the following duties, powers, and responsibilities:

21 (1) To coordinate the purchase, lease, and use of
22 communications services equipment and facilities for state
23 government;

24 (2) To advise departments and agencies of the state and
25 political subdivisions thereof as to systems or methods to be used
26 to meet requirements efficiently and effectively;

27 (3) To provide assistance as requested by the Nebraska
28 Information Technology Commission to support the technical panel

1 created in section ~~86-1511~~ 295 of this act;

2 (4) To consolidate and integrate radio communications
3 systems and services of state agencies so far as practical and to
4 provide for their joint use by the agencies;

5 (5) To consolidate telephone and telephone-related
6 activities, so far as practical, and to provide for their joint use
7 by the agencies;

8 (6) To assume management responsibility for any
9 consolidated system or service and approve all purchases and
10 contracts for such communications activities;

11 (7) To enter into agreements for the mutual support and
12 use of communications services of the agencies and departments of
13 state government and its political subdivisions;

14 (8) To provide for the rendering of mutual aid between
15 state government and its political subdivisions and to cooperate
16 with other states and the federal government with respect to the
17 organizing of communications in expediting the carrying out of
18 mutual aid in disasters, emergencies, and civil defense emergencies
19 under the Emergency Management Act;

20 (9) To use or acquire communications facilities now owned
21 or operated by any state agency and to compensate such agency when
22 appropriate;

23 (10) To standardize policies and procedures for the use
24 of such services in such a manner that communications systems in
25 the domain of public safety or security not be compromised;

26 (11) To assume responsibility for the maintenance and
27 repair of state-owned communications facilities so far as
28 practical;

1 (12) To coordinate and consolidate maintenance and repair
2 procedures and facilities so far as possible in the light of good
3 business practice and the requirements of the agencies and
4 departments concerned;

5 (13) Subject to the conditions provided in section
6 81-1120.19, to contract with qualified suppliers and communications
7 common carriers for communications facilities or services,
8 including private-line services;

9 (14) To apply for, receive, coordinate, and hold or, if
10 appropriate, assist agencies in applying for, receiving, or holding
11 such authorizations, licenses, and allocations of channels and
12 frequencies as are necessary to carry out the purposes of sections
13 81-1120.01 to 81-1120.03 and 81-1120.15 to 81-1120.28;

14 (15) To acquire real estate, equipment, and other
15 property as an agency of the state, subject to the provisions of
16 section 81-1120.19;

17 (16) To cooperate with the Nebraska Emergency Management
18 Agency as to its needs for emergency communications services; and

19 (17) To insure that communications facilities are not
20 used for any purpose which is contrary to the policy and intent of
21 sections 81-1120.01 to 81-1120.03 and 81-1120.15 to 81-1120.28 or
22 contrary to the laws and agreements under which the facilities are
23 to be utilized.

24 Sec. 483. Section 81-1120.19, Reissue Revised Statutes
25 of Nebraska, is amended to read:

26 81-1120.19. The division shall have authority to
27 purchase or lease communications facilities, services, or channels
28 on terms which are for the best interests of the State of Nebraska.

1 In making the decision as to what proposal is for the best
2 interests of the state, the decision of the division shall be based
3 upon, but not necessarily limited to, (1) the total cost to the
4 state, computed in accordance with accepted governmental
5 cost-accounting procedures taking into account taxes to be paid or
6 foregone, interest rates, and obsolescence; (2) the quality of the
7 service offered; (3) the comprehensiveness of the proposed
8 facilities or plan; (4) the financial responsibility of the
9 supplier or carrier submitting the proposal; (5) the repair and
10 maintenance capabilities of the supplier or carrier; (6) the
11 experience as a communications carrier or supplier, as applicable;
12 and (7) the alternate methods or facilities available. The powers
13 conferred by this section shall be subject to the condition that,
14 except for existing state-owned facilities, the division shall
15 obtain all exchange, intercity, toll, wide-area and private-line
16 communications service from telecommunications carriers ~~regulated~~
17 ~~and that are~~ certificated or permitted by the Public Service
18 Commission ~~in the~~ for any area or areas in which such services are
19 rendered. Any purchase or lease, except from such ~~regulated~~
20 telecommunications carriers, made by the division shall be made
21 through the materiel division of the Department of Administrative
22 Services pursuant to the functions, powers, and duties of such
23 division.

24 Sec. 484. Section 81-1576, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-1576. As used in sections 81-1575 to 81-1577, unless
27 the context otherwise requires:

28 (1) Hazardous substance shall mean any substance defined

1 in subsection (14) of section 101 of the Comprehensive
2 Environmental Response, Compensation, and Liability Act of 1980 as
3 it existed on January 1, 1985, but not including any substance
4 regulated as a hazardous waste under subtitle C of such act;

5 (2) Registration shall mean the submission of information
6 on a form which includes, but is not limited to:

7 (a) A description of the type and size of the storage
8 tank;

9 (b) The number of barrels or other measurement used to
10 determine the storage capacity of the tank;

11 (c) A list of all hazardous substances which are or will
12 be stored in the tank;

13 (d) The name and address of the facility at which the
14 tank is located;

15 (e) The name and address of the person, firm, or
16 corporation owning the storage tank and, if different, the name and
17 address of the person who operates the storage tank;

18 (f) The name of the contact person and a ~~phone~~ telephone
19 number where the contact person can be reached at any time in the
20 event of an emergency involving the tank or facility at which the
21 tank is located; and

22 (g) If the owner or operator of the storage tank is a
23 public agency, the registration shall include the name of the
24 supervisor of the division, section, or office which operates the
25 tank; and

26 (3) Storage tank shall mean any tank having a storage
27 capacity in excess of one thousand gallons used for the containment
28 of hazardous substances for any period of time, except those tanks

1 which are regulated under rules and regulations adopted pursuant to
2 section 81-502 in accordance with standard K 61.1(1972) of the
3 American National Standards Institute.

4 Sec. 485. Section 81-1849, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-1849. To receive the notices provided for in section
7 81-1848, a victim shall keep the county attorney informed of his or
8 her current address and ~~phone~~ telephone number until sentence has
9 been imposed or the final disposition reached in the case in which
10 the victim is involved, whichever is earlier.

11 Sec. 486. The Revisor of Statutes shall assign:

12 (1) Sections 2 to 419 of this act to Chapter 86;

13 (2) Section 424 of this act to Chapter 25, article 8;

14 (3) Sections 425 to 428 of this act to Chapter 25,
15 article 21;

16 (4) Sections 432 to 434 of this act to Chapter 28,
17 article 5;

18 (5) Sections 437 and 438 of this act to Chapter 30;

19 (6) Section 443 of this act to Chapter 54;

20 (7) Sections 445 to 453 of this act to Chapter 70,
21 article 3;

22 (8) Section 469 of this act to Chapter 76, article 23;
23 and

24 (9) Sections 471 to 476 of this act to Chapter 76.

25 Sec. 487. Sections 2 to 485, 488, and 489 of this act
26 become operative on January 1, 2003. The other sections of this
27 act become operative on their effective date.

28 Sec. 488. Original sections 2-3917.02, 25-2503, 28-711,

1 28-1310, 43-158, 70-301, 75-101, 75-128, 75-133, 75-155, 75-605,
2 75-607, 75-608, 75-611 to 75-616, 76-2301, 76-2321, 81-1117,
3 81-1120.17, 81-1120.19, 81-1190 to 81-1192, 81-1576, 81-1849,
4 81-2301 to 81-2303, 81-2305, 81-2306, 81-2308, 81-2309 to 81-2313,
5 81-2601, 81-2603 to 81-2605, 86-101 to 86-107, 86-109, 86-111,
6 86-112, 86-208 to 86-211, 86-301 to 86-309, 86-329 to 86-331.04,
7 86-334 to 86-338, 86-401 to 86-412, 86-502, 86-601, 86-701 to
8 86-712, 86-801, 86-802, 86-805 to 86-807, 86-809, 86-810, 86-1001
9 to 86-1004, 86-1006 to 86-1009, 86-1101 to 86-1109, 86-1201 to
10 86-1218, 86-1221, 86-1301 to 86-1305, 86-1307, 86-1401, 86-1402,
11 86-1404, 86-1406 to 86-1410, 86-1501 to 86-1514, 86-1601 to
12 86-1606, 86-1803 to 86-1811, 86-1901 to 86-1904, 86-1906, 86-1910,
13 86-1911, 86-2002 to 86-2007, and 86-2009 to 86-2013, Reissue
14 Revised Statutes of Nebraska, sections 2-1570, 25-2602.01,
15 49-14,141, 52-1307, 52-1314, 75-109, 75-122.01, 75-134, 75-156,
16 75-606, 75-609 to 75-610, 75-617, 79-1327, 81-1120.35 to
17 81-1120.38, 81-1120.40, 81-1194, 81-1195, 81-1196.01, 81-1199,
18 81-11,102, 81-2304, 81-2307, 81-2308.01, 81-2602, 86-803, 86-811,
19 86-1005, 86-1110, 86-1111, 86-1219, 86-1222, 86-1306, 86-1701, and
20 86-2101 to 86-2116, Revised Statutes Supplement, 2000, sections
21 18-419, 28-401, 70-625, 70-704, 70-1409, 71-1,142, 75-132.01,
22 75-604, 79-215, 79-1241.02, 79-1328, 86-804, 86-808, 86-1403,
23 86-1405, 86-1905, 86-1907 to 86-1909, 86-2001, 86-2008, 86-2014,
24 86-2201 to 86-2214, and 86-2301 to 86-2307, Revised Statutes
25 Supplement, 2001, and section 9-812, Revised Statutes Supplement,
26 2001, as amended by section 1, Legislative Bill 3, Ninety-seventh
27 Legislature, First Special Session, 2001, are repealed.

28 Sec. 489. The following sections are outright repealed:

LB 917

LB 917

- 1 Sections 86-108, 86-110, 86-113, 86-201, 86-202, 86-203, 86-503,
- 2 86-602, 86-603, and 86-1220, Reissue Revised Statutes of Nebraska.